

# NATIONAL ASSEMBLY

## OFFICIAL REPORT

Thursday, 16<sup>th</sup> February, 2017

The House met at 2.30 p.m.

*[The Speaker (Hon. Muturi) in the Chair]*

PRAYERS

QUORUM

**Hon. Speaker:** May you ring the Quorum Bell.

*(The Quorum Bell was rung)*

PETITION

REMOVAL OF AUDITOR-GENERAL FROM OFFICE

**Hon. Speaker:** Hon. Members, Standing Order No.225(2)(b) requires that the Speaker reports to the House any petition other than those presented through a Member. I, therefore, wish to convey to the House that my office has received a petition regarding the removal of the Auditor-General of the Republic of Kenya from office.

Hon. Members, the Petition is signed by one, Mr. Emmanuel Mwangambo Mwagonah of P. O. Box 35263-00100, Nairobi stating that Mr. Edward Ouko, the Auditor-General is in serious violation of the Constitution and several other laws of the Republic. The petitioner contends that the Auditor-General has *inter alia* violated the provisions of the Constitution namely:

- (i) Article 254(1) by failing to submit reports to the President and to Parliament.
- (ii) Article 201(d) regarding prudent and responsible use of public funds by allegedly failing to prevent wastage of public funds.
- (iii) Article 73(2)(b) by ignoring merit and the approved scheme of service in the recruitment and promotion of employees in the Office of the Auditor-General.

Hon. Members, the petitioner further asserts that the Auditor-General has severally acted contrary to:

- (i) The Public Procurement and Assets Disposal Act with regard to procurement activities in the office.
- (ii) The Public Audit Act with regard to the appointments of members to and operations of the Audit Advisory Board.
- (iii) The Leadership and Integrity Act with regard to alleged conflict of interest and recruitment of some employees in 2015.

In this regard, Hon. Members the petitioner prays that:

- (i) The National Assembly resolves that this Petition discloses grounds for removal of the Auditor-General as provided for under Article 251(1) of the Constitution of Kenya.
- (ii) The National Assembly recommends to His Excellency the President for the appointment of a tribunal to investigate the Auditor-General in accordance with the provisions of Article 251 of the Constitution.

Hon. Members, a petition of this nature is not new to the House. Allow me, therefore, to guide the House that pursuant to Paragraph (3) of Standing Order No.230, this Petition stands committed to the Departmental Committee on Finance, Planning and Trade for consideration.

The Committee should guide the House by way of a report on whether the Petition satisfies the requirements of Article 251 of the Constitution and any other relevant law relating to the grounds for removal of a holder of an independent office. The Committee has 24 days within which to submit a report to the House as required under Paragraph (4) of Standing Order No.230.

I implore upon the Committee to exhaustively examine each of the grounds and the particulars claimed by the petitioner as the process of removal of persons from office is quasi-judicial requiring judicious attention and sobriety.

For avoidance of doubt, once the Committee tables its report, the House will have 10 days within which to consider the report and decide whether or not the petition discloses grounds for removal of the Auditor-General from office.

I thank you.

The Member for Ugunja, you have the Floor.

**Hon. Wandayi:** Thank you, Hon. Speaker. I just wish to seek your permission to make a comment or two on this petition.

The petition is perfectly before the House and I agree with your directive that the Committee works on it expeditiously. I want us to take notice of one or two things.

Firstly, the Auditor-General, Mr. Edward Ouko, is my constituent and, therefore, I have an interest in this matter on that account only. This petition, even though I support that the Committee deals with it expeditiously, is coming at a time when we have had a lot of shenanigans surrounding the Office of the Auditor-General. I just pray and hope that this is not an extension of attempts that have been made out there to drag the Auditor-General out of office.

You will recall that not long ago, the Auditor-General was subjected to investigations by the Ethics and Anti-Corruption Commission (EACC), which submitted a report to the Office of the Director of Public Prosecutions (DPP). In line with the Constitution, the DPP, Mr. Tobiko, found that there was no merit.

**Hon. Speaker:** Hon. Wandayi, let us not go into the merits. I have forwarded all those plethora of things to the Committee. Indeed, it is before the Committee that the matter will be best canvassed. So, just limit yourself to comments. That is what our rules say.

**Hon. Wandayi:** As my constituent, I just wish to go on record that---

**Hon. Speaker:** There is no stake. The House has heard you. Even what you have said should be considered by the Committee when they are discussing the matter.

**Hon. Wandayi:** Hon. Speaker, this is part of the shenanigans going around to remove him from office un-procedurally on account of the reports he continues to produce which indict high people in office.

**Hon. Speaker:** Yes, the Member for Imenti North.

**Hon. Dawood:** Thank you, Hon. Speaker. The Hon. Member should leave the merits and demerits to the Departmental Committee on Finance, Planning and Trade. If he has anything to

present, he should come to the Committee when we meet Mr. Ouko. Let him not debate it in the House before we even present a report.

**Hon. Speaker:** The Member for Kitutu Chache South, you have the Floor.

*(Hon. Onyonka moved to the Dispatch Box)*

Just go back to where you are seated and you will be given a microphone. Members, do not just jump to the Dispatch Box. It is not always available.

**Hon. Onyonka:** Thank you, Hon. Speaker. I have a problem with my card, but I have been informed what to do. The matter that I wanted to raise has actually been handled. I want to apologise for interfering with the debate.

**Hon. Speaker:** Yes, Dr. Makali Mulu.

**Hon. Mulu:** Thank you, Hon. Speaker. I am aware that the petitioner is in order to present the petition before this House. My appeal to the Departmental Committee on Finance, Planning and Trade is that this petition be taken seriously in terms of deliberations. This petition is about an independent commission. We have a number of constitutional independent commissions in this country.

My appeal is that this petition should be dealt with in a way that would clear all the issues to do with independent commissions. I am getting concerned that such a petition could be coming to this House to scare independent commissions from doing their work. I want this Committee to take this thing seriously so that as a result of its report, this House will stamp the authority that independent commissions are, indeed, independent commissions and they must be allowed to do their work constitutionally.

**Hon. Speaker:** Hon. Members, let me just do one thing as I close this debate. Unfortunately, it must be borne in mind by this House that the independent office of the Auditor-General is a technical advisor to this House. I would agree with Hon. Makali Mulu that we should avoid discussing this thing without the benefit of any report from the Committee. But again as advised, it is fair that the matter be given the seriousness and the sobriety necessary in considering it, especially for the reasons stated by the Member for Kitui Central concerning an independent office.

I would not want the House to get into sideshows. Let us just go and look at it professionally and advise the House. You have done that in the past, I am sure you will rise to the occasion once again.

Before we go to the next Order, allow me to recognise the presence of students from the following institutions seated in the Speaker's Gallery: Nginda Girls Secondary School, Maragua Constituency in Murang'a County and Bavuni Secondary School, Bahati Constituency in Nakuru County. They are all welcome to observe the proceedings in the House.

Let us now move on to the next Order.

## STATEMENT

BUSINESS FOR THE WEEK COMMENCING 21<sup>ST</sup> TO 23<sup>RD</sup> FEBRUARY 2017

**Hon. Speaker:** Let us now hear the Leader of the Majority Party.

**Hon. A.B. Duale:** Hon. Speaker, pursuant to the provisions of Standing Order 44(2)(a) and on behalf of the House Business Committee (HBC), I rise to give Statement regarding the business appearing before the House for the week beginning Tuesday, 21<sup>st</sup> February 2017.

The HBC met on Tuesday this week at the rise of the House to prioritise business for consideration. On Tuesday next week, the House is expected to continue with the Second Reading of the Betting, Lotteries and Gaming (Amendment) Bill, 2016; the SACCO Societies (Amendment) Bill, 2016; the Statute Law (Miscellaneous Amendments) (No.2) Bill of 2016; and the Office of the County Printer Bill (Senate Bill No.42 of 2014) should we not conclude them today.

In the same week, the HBC has given priority for consideration of Sessional Paper No.2 of 2015 on the National Building Maintenance Policy and Sessional Paper No.2 of 2016 on National Slum Upgrading and Prevention Policy. We will also schedule various committee reports for debate so that chairpersons can make sure that all relevant Notices of Motions have been given in good time.

Finally, the HBC will reconvene on Tuesday, 21<sup>st</sup> February 2017 at the rise of the House to consider business for the coming week.

I now wish to lay this Statement on the Table of the House.

Thank you.

*(Hon. A.B. Duale laid the document on the Table)*

**Hon. Speaker:** Next Order!

### MOTION

#### ADOPTION OF REPORT ON NOMINEE FOR APPOINTMENT AS CHAIRPERSON OF CRA

THAT, this House adopts the Report of the Departmental Committee Finance, Planning and Trade on the Vetting of Nominee for Appointment as the Chairperson of the Commission on Revenue Allocation, laid on the Table of the House on Wednesday, February 15, 2017, and pursuant to the provisions of Article 215 of the Constitution and Section 9 of the Commission on Revenue Allocation Act, approves the appointment of Dr. Jane Wangui Kiringai as Chairperson of the Commission on Revenue Allocation.

*(Hon. Gaichuhie on 15.2. 2017)*

*(Debate concluded on 15. 2. 2017- Afternoon Sitting)*

**Hon. Speaker:** Hon. Members, debate on this Motion was concluded yesterday. What remains is for me to put the Question, which I hereby do.

*(Question put and agreed to)*

Next Order!

**BILL***Third Reading*

## THE PUBLIC PRIVATE PARTNERSHIPS (AMENDMENT) BILL

**Hon. A.B. Duale:** Hon. Speaker, I beg to move that the Public Private Partnerships (Amendment) Bill be now read the Third Time.

**Hon. Mulu:** I second.

*(Question proposed)*

*(Question put and agreed to)*

*(The Bill was accordingly read the Third Time and passed)*

**Hon. Speaker:** Next Order!

**COMMITTEE OF THE WHOLE HOUSE**

*(Order for Committee read)*

*[The Speaker (Hon. Muturi) left the Chair]*

**IN THE COMMITTEE**

*[The Deputy Chairman (Hon. Muturi) took the Chair]*

## THE PUBLIC FINANCE MANAGEMENT (AMENDMENT) BILL

*(Resumption of consideration interrupted  
on 15.2.2017 – Afternoon Sitting)*

**Hon. Deputy Chairman:** Hon. Members, we are now in the Committee of the whole House. The Public Finance Management (Amendment) Bill was considered up to Clause 66. We will proceed from there.

*Clause 67*

**Hon. Gaichuhie:** Hon. Deputy Chairman, I beg to move:

THAT, Clause 67 be amended by inserting the following new paragraph immediately after paragraph (a) –

(aa) deleting Subsection (4) and substituting therefor with the following new subsection –

“(4) Members of the Board except *ex officio* members shall be appointed by the Cabinet Secretary and serve for a term of three years, renewable once for a further term of three years”.

*(Question of the amendment proposed)*

**Hon. Deputy Chairman:** Yes, Hon. Wamalwa.

**Hon. Wakhungu:** Hon. Deputy Chairman, I support this amendment but I think it is always good to give the import of the proposed amendment. Hon. Gaichuhie has not even explained to the Members the import of this amendment.

**Hon. Deputy Chairman:** Hon. Wamalwa, your point is valid. The Departmental Committee Chairman, I think it is fair to inform Members because just as I said yesterday, those who participate at this stage are not necessarily those who were there during the Second Reading. You can explain the rationale behind the proposal.

**Hon. Gaichuhie:** Hon. Deputy Chairman, all the *ex-officio* members of the Board are either Principal Secretaries (PSs) or other senior Government officials. We are proposing to have members who will be experts in Public Finance Management. We do not want to specify the qualifications because when we come to this, we always want to have accountants. The Committee thought we should just leave it open to have other members who will serve for a term of three years. If they serve well, they can have a further term of only three years.

**Hon. Deputy Chairman:** Hon. Wamalwa, are you satisfied?

**Hon. Wakhungu:** On that note, I support. Three years is neither too short nor too long. It is consistent with the parastatals, where CEOs only serve for three years. This is good enough to create some impact.

*(Question, that the words to be inserted be inserted,  
put and agreed to)*

*(Clause 67 as amended agreed to)*

*[The Deputy Chairman (Hon. Muturi)  
left the Chair]*

*[The Temporary Deputy Chairman  
(Hon. Cheboi) took the Chair]*

**The Temporary Deputy Chairman (Hon. Cheboi):** Hon. Members, the Leader of the Majority Party wants to apologise on behalf of his membership. We will proceed with the Public Finance Management (Amendment) Bill.

*(Clauses 68 and 69 agreed to)*

*New Clause 9A*

**The Temporary Deputy Chairman** (Hon. Cheboi): I will call the Mover to move Second Reading of the New Clause. Let us have Hon. Mutava Musyimi. Hon. Emaase, on behalf of the Committee, proceed to move Second Reading of New Clause 9A.

**Hon. (Ms.) Otucho:** Hon. Temporary Deputy Chairman, I beg to move:

THAT the Bill be amended by inserting the following new clauses immediately after clause 9—

Amendment of section 25 of No. 18 of 2012.

9A. Section 25 of the principal Act is amended —

- (a) in subsection (2) by deleting the word “February” and substituting therefor the word “January”;
- (b) in Subsection (7) by deleting the word “fourteen” and substituting therefor the word “thirty”; and
- (c) by deleting subsection (8) and substituting therefor the following new subsection —
  - (8) The resolution passed under Subsection (7) shall form the basis of the budget for the relevant financial year.

*(Question of the new clause proposed)*

*(New clause read the First Time)*

*(Question, that the new clause be read a Second Time, proposed)*

**The Temporary Deputy Chairman** (Hon. Cheboi): There are two Members who want to speak to this one. I can see the Leader of the Majority Party.

**Hon. A.B. Duale:** Hon. Temporary Deputy Chairman, the Vice-Chair cannot take this House for granted. She needs to tell us what she is amending. We will contribute from there. What are you reading for the second time?

**The Temporary Deputy Chairman** (Hon. Cheboi): I agree with you totally, the Leader of the Majority Party, but you notice that the Vice-Chair has just been ambushed. In my opinion, she is doing very well but what you can do, Vice-Chair, is to expound on what you actually intend to achieve with the new clause. You can look at it from the Order Paper, and because you are a very active member of the Committee attending almost all meetings, I am sure you can respond.

**Hon. (Ms.) Otucho:** Thank you, Hon. Temporary Deputy Chairman. The main import of this amendment in New Clause 9A---

*(Hon. A. B. Duale consulted loudly)*

**The Temporary Deputy Chairman** (Hon. Cheboi): Order, the Leader of the Majority Party! We know all the parties which constitute this House and the one I have just heard you mention is not part of the political parties in this House.

**Hon. Nooru:** On a point of order, Hon. Temporary Deputy Chairman.

**The Temporary Deputy Chairman** (Hon. Cheboi): The Member for Mandera North, what is it? Order, Hon. Emaase!

**Hon. Nooru:** Hon. Temporary Deputy Chairman, I only want the House to recognise that there is a new movement called (*inaudible*) which we are trying to recruit the team.

**The Temporary Deputy Chairman** (Hon. Cheboi): We will have to expunge that from the records because there are no movements in this House. There are only political parties and a few independent Members.

Hon. Emaase, proceed.

**Hon. (Ms.) Otucho:** Thank you, Hon. Temporary Deputy Chairman. New Clause 9A seeks to amend Section 25 of the principal Act by deleting the word “February” and substituting it with the word “January”. The main import of this amendment is to increase the period of consideration of the Budget Policy Statement (BPS). It is also to ensure that the resolutions of the House on the BPS form the basis of the annual estimates for the succeeding financial year.

**The Temporary Deputy Chairman** (Hon. Cheboi): That is perfectly spelt out. I had already proposed the Question and we will, therefore, give a chance to the Member for Kiminini. He was following it keenly.

**Hon. Wakhungu:** Thank you, Hon. Temporary Deputy Chairman. I know people are busy in primaries but in this case because we are doing the entire New Clause 9A, unless you are specifically focusing on New Clause 9A --- As per her explanation, she is only focusing on New Clause 9A. If that is the case then that is in order.

**The Temporary Deputy Chairman** (Hon. Cheboi): That is the position because the next one after this will be New Clause 9B.

**Hon. Wakhungu:** Thank you. I support this amendment because the BPS provides a framework for the Budget estimates. Many a times we do not have ample time to scrutinise it and, if possible, propose any amendments that may be of value. So, if this amendment is to expand and extend the timeframe, I support.

**The Temporary Deputy Chairman** (Hon. Cheboi): Let us have the Leader of the Majority Party. I will give four Members a chance on this one. So Members, be patient.

**Hon. A.B. Duale:** Hon. Temporary Deputy Chairman, the Vice-Chair is not telling us--- Firstly, when you move it from February to January, you are interfering with the calendar of this House. January is a month when this House is on recess. So, if you bring it to January, how will you table the BPS?

Secondly, I think the time the Cabinet Secretary (CS) is supposed to bring the BPS is found in the Constitution. So, I oppose that rearrangement of the calendar.

**The Temporary Deputy Chairman** (Hon. Cheboi): Let us hear the Member for Kitui Central and then I will come to a Member from this other side.

**Hon. Mulu:** Thank you, Hon. Temporary Deputy Chairman. Maybe the explanation is not very clear. Let me help in terms of explaining the essence of this amendment.

Hon. Members, you realise that as a House, we have been given a bigger mandate in terms of budget-making. The experience has been that when the BPS is presented to this House, and that happens in the month of February, the House is left with minimal time to analyse the budget and be able to give the right advice as representatives of the people. So, this amendment is trying to do two important things. The first one is to have a legal framework which allows the National Treasury to present the BPS earlier than February so that we can have more time to look at the statement.

The second import of this amendment is we are saying, as a House, that we have been passing the BPS, and resolutions of the House have not been adhered to when we get the annual estimates. So, we are saying that when this amendment passes, we will have more time, as a



House, to look at the BPS. We will also have an enforcement mechanism to make sure that resolutions made by the House are adhered to in terms of annual estimates. That is the essence.

I support.

**Hon. A.B. Duale:** On a point of order, Hon. Hon. Temporary Deputy Chairman.

**The Temporary Deputy Chairman** (Hon. Cheboi): What is the point of order, the Leader of the Majority Party?

**Hon. A.B. Duale:** Hon. Temporary Deputy Chairman, Parliament is an independent institution and it works with its calendar. I really ask Hon. Makali and the Vice-Chair--- Fine, you want to bring the submission of the BPS earlier in January but the route that you use is that the BPS, first, must be tabled before the plenary, but the House is in recess in the month of January. You cannot call a Special Sitting of the House just for the tabling of the BPS.

Technically, this House must protect its calendar. I have no problem but you bring it closer when the House is on recess in the month of January. It does not work. The BPS does not move straight from the National Treasury to the Budget and Appropriations Committee. It must, first, be tabled before the plenary by the Leader of the Majority Party. I would like to tell the Vice-Chair that this is not practical. We want to interfere with the independence of the calendar of this House. We do not want that. We will oppose it. Before we oppose it, I would like to tell the Vice-Chair that the intent is very good but it is not practical.

**The Temporary Deputy Chairman** (Hon. Cheboi): Let me give the last Member a chance and then I will put the Question. Hon. Members will make their decision. I will give an opportunity to the Member for Kipipiri, and an extra one to the Member for Nakuru.

**Hon. Gichigi:** Thank you, Hon. Temporary Deputy Chairman. Having heard the previous submissions, I think the intention of this proposal is to ensure that we have ample time. Previously, we had a situation where the estimates were actually brought before the House and then within one week or even a few days, the House was supposed to approve them. Even if there is a problem with the clash of the calendar, I support the position where we get the proposals early enough to enable this House deal with them. We are talking about 30<sup>th</sup> January by which date the House will have resumed.

**The Temporary Deputy Chairman** (Hon. Cheboi): Let me put the Question. Hon. Members, you know the import of any decision that you will make.

I will put the Question again. Hon. Leader of the Majority Party, you have voted twice which is not right.

*(Question, that the new clause be read a Second Time,  
put and negatived)*

*New Clause 9B*

**The Temporary Deputy Chairman** (Hon. Cheboi): I now call on the Mover to move Second Reading. We are having problems with the microphone and that is why sometimes there is need for an alternative mechanism. You will adjust yourselves. If you are given a microphone next to yours, proceed.

**Hon. (Ms.) Otucho:** Thank you, Hon. Temporary Deputy Chairman. I wish to withdraw the amendment to New Clause 9B because it has a similar import to the amendment to Section 33 of the principal Act by deleting “February” on debt management.

*(Proposed New Clause 9B by Hon. (Ms.) Otucho withdrawn)*

*New Clause 14A*

**Hon. (Ms.) Otucho:** Hon. Temporary Deputy Chairman, I beg to move:

THAT the Bill be amended by inserting the following new clause immediately after clause 14 —

Amendment of section 46 of No. 18 of 2012 14A. Section 46 of the principal Act is amended in Subsection (2) by deleting the words “the National Treasury” and substituting therefor the words “programmes and projects”.

**The Temporary Deputy Chairman** (Hon. Cheboi): Can you make justifications briefly? You can see there are some grey areas. Members need to get some clarity from you.

**Hon. (Ms.) Otucho:** Clause 14 is an amendment seeking to delete the clause that amends Section 42 of the Act on processing of the Division of Revenue Bill and County Allocation Revenue Bill. We dealt with this extensively yesterday and the gist of this amendment is to ensure that the National Assembly and county assemblies retain the power to approve withdrawals from either the Consolidated Fund or from the County Revenue Allocation through this Bill. That is the gist of this amendment.

*(Question of the new clause proposed)*

*(New clause read the First Time)*

*(Question, that the new clause be read a Second Time, proposed)*

**Hon. Wakhungu:** On a point of order, Hon. Temporary Deputy Chairman.

**The Temporary Deputy Chairman** (Hon. Cheboi): What is your point of order? I wanted to give you an opportunity to speak.

**Hon. Wakhungu:** It is a point of order. We are discussing a very critical thing and it is important that whoever is moving must be on top of things. What Hon. Mary is saying is different. There is no consistency. She is misleading this House. I know it is rush hour and everybody wants to go for primaries, but she should not mislead this House. It must be in line with the amendments. There is no consistency at all. We need proper clarifications. Maybe she was not prepared and she has been ambushed. We can push this to a later time because the Chair is not here. This is important but you are misleading the House and the public. You are opening a Pandora's box. There is no consistency. She does not know what she is talking about.

**The Temporary Deputy Chairman** (Hon. Cheboi): Order! Before you do that, remember yesterday we deleted Clause 14. So, the proposal that is before the House is New Clause 14 A to replace Clause 14. The Leader of the Majority Party, in the circumstances, it is very prudent that you take the steering wheel. This is after noting that we have some issues which are not very clear especially on the part of the persons moving.

Proceed, Hon. Leader of the Majority Party.

**Hon. A.B. Duale:** Hon. Temporary Deputy Chairman, I know Hon. Mary is a very competent accountant, but because the Chairman, Bishop Mutava gave her notes similar to what I have, I want her to read seven. She has read six which is wrong. Read seven in your notes.

Vice-Chair, you are removing “National Treasury” and you are substituting therefore with the words “program and projects”. I wanted you to read seven. If you read seven in your notes which I have here, then---

**The Temporary Deputy Chairman** (Hon. Cheboi): Which notes are you talking about, the Leader of the Majority Party?

**Hon. A.B. Duale:** No! This is for the chairs and the leadership for justification. She knows. If you read seven you will give us a good reason.

**The Temporary Deputy Chairman** (Hon. Cheboi): What we will do so that we are clear is that we can give you the opportunity as the Leader of the Majority to proceed on it.

**Hon. (Ms.) Otucho:** Hon. Temporary Deputy Chairman, I think I read Clause 14 instead of New Clause 14A. Allow me to make the correction.

**The Temporary Deputy Chairman** (Hon. Cheboi): That cannot be the position. Clause 14 was deleted yesterday. That is not there. What we are doing is New Clause 14A. You have moved it. The problem is that you have not put sufficient justification. When you moved it in the first place, you were moving Clause 14 which was deleted. I want you to justify. I can see you are exchanging some information with the Leader of the Majority Party. If you proceed in the manner which you have agreed with him, it will be much clearer for Members.

**Hon. (Ms.) Otucho:** Hon. Temporary Deputy Chairman, this Clause amends Section 46 of the Act on the functions of the Cabinet Secretary for National Treasury. The main reason for the proposed amendment is to ensure that Exchequer Issues are reported as per the programmes and projects for effective monitoring and evaluation.

**The Temporary Deputy Chairman** (Hon. Cheboi): You have done very well on that one. Let us proceed.

I will give two Members a chance. Let us start with Hon. Gikaria.

**Hon. Gikaria:** I support, Hon. Temporary Deputy Chairman.

**The Temporary Deputy Chairman** (Hon. Cheboi): Hon. Wamalwa, do you want to speak to it now?

**Hon. Wakhungu:** I was explaining to Hon. Midiwo what was going on. He came late and he wanted to understand why there was a mix-up.

*(Question, that the new clause be read a Second Time,  
put and agreed to)*

*(New clause was read a Second Time)*

*(Question, that the new clause be added to the Bill,  
put and agreed to)*

*New Clause 35A*

**Hon. (Ms.) Otucho:** Hon. Temporary Deputy Chairman, I beg to move:

THAT the Bill be amended by inserting the following new clause immediately after clause 35—

- Amendment of section 117 of No. 18 of 2012.
- 35A. Section 117 of the principal Act is amended —
- (a) in Subsection (1) by deleting the expression “28<sup>th</sup>” and substituting therefor the expression “15<sup>th</sup>”; and
  - (b) in Subsection (6) by deleting the word “fourteen” and substituting therefor the word “thirty”.

**The Temporary Deputy Chairman** (Hon. Cheboi): Proceed with the justification

**Hon. (Ms.) Otucho:** New Clause 35A amends Section 117 of the Act on the County Fiscal Strategy Paper. The main aim of this amendment is to extend the period of consideration of the County Fiscal Strategy Paper by county assemblies from 14 days to 30 days.

**The Temporary Deputy Chairman** (Hon. Cheboi): Hon. Members can ventilate on that. If we can get members of the Committee, they can pursue this matter further.

*(Question of the new clause proposed)*

*(New clause read the First Time)*

*(Question, that the new clause be read a Second Time, proposed)*

Hon. Makali, your microphone is not working. You will probably get the next one. There you are.

**Hon. Mulu:** Thank you, Hon. Temporary Deputy Chairman. As I said earlier on, if you look at the new clause, you will find that it has the same reasoning like the one we had rejected. We are saying that county assemblies, just as the National Assembly, have been given a bigger mandate in the budget-making process. We want to allow more time for the assemblies to look at the budgets. What Hon. Mary is saying, if you just allow her more time, is that we should allow county assemblies to look at the Budget more keenly and make informed decisions.

While I support this---

**The Temporary Deputy Chairman** (Hon. Cheboi): Okay. As you proceed on that, does the fact that the other one was lost affect this one?

**Hon. Mulu:** Hon. Temporary Deputy Chairman, I think this one should also be lost. The National Assembly and the county assemblies are replicas in terms of budget-making. I think we are being unfair to the assemblies in terms of time allowed to look at this process.

**The Temporary Deputy Chairman** (Hon. Cheboi): I want to ask a specific question so that the membership can be clear. If this one goes through, for example, does it have any effect on what was lost?

**Hon. Mulu:** No, it does not have.

**The Temporary Deputy Chairman** (Hon. Cheboi): So, it could still be that the county assemblies have more time and the National Assembly does not?

**Hon. Mulu:** Hon. Temporary Deputy Chairman, I agree with you because one of the things we are facing is that we have challenges in the capacity of county assemblies. So, if we allow them more time, it will be better because even their capacity is not the capacity of our level, anyway. That is known.

**The Temporary Deputy Chairman** (Hon. Cheboi): Hon. Mwaita, the Member for Baringo Central, you have the Floor.

**Hon. Mwaita:** Hon. Temporary Deputy Chairman---

*(Technical hitch)*

**The Temporary Deputy Chairman** (Hon. Cheboi): You can move to the next one.

**Hon. Mwaita:** Hon. Temporary Deputy Chairman, I want to support the increase of time to 30 days because counties are the centre of devolution. Allowing Members of County Assemblies (MCAs) is also good, as the former speaker has said, because their capacity may not be at par with the National Assembly.

I support.

**The Temporary Deputy Chairman** (Hon. Cheboi): That is okay.

*(Question, that the new clause be read a Second Time,  
put and agreed to)*

*(New clause was read a Second Time)*

*(Question, that the new clause be added to the Bill,  
put and agreed to)*

*New Clause 36A*

**The Temporary Deputy Chairman** (Hon. Cheboi): Let us have the Mover to move Second Reading. Hon. Emaase, I am sure you are seasoned this afternoon. This is actually for the Leader of the Majority Party.

**Hon. A.B. Duale:** What?

**The Temporary Deputy Chairman** (Hon. Cheboi): Yes, this one is yours. It is the New Clause 36A.

**Hon. A.B. Duale:** Hon. Temporary Deputy Chairman, I want to move this in an amended form. First, I will move New Clause 36A for Second Reading. It says:

THAT, the following new clause be inserted immediately after Clause 36—

Criteria for approval to open bank account.

119A. (1) Subject to the provisions of section 119, the following criteria shall be considered by the County Treasury in granting approval to a county government entity to open and operate a county government bank account—

- (a) all county exchequer accounts shall be opened at the Central Bank of Kenya;
- (b) for avoidance of doubt, all county government bank accounts shall be opened at the Central Bank of Kenya except for imprest bank accounts for petty cash which shall be opened at a bank designated by the County Treasury.

(2) Except with the prior authority of the County Treasury, no accounting officer may open a bank account for the deposit, custody or withdrawal of public moneys or other moneys for which he or she is responsible in his or her official capacity or

for the transaction of official banking business.

(3) The authority of County Treasury shall be conveyed in writing to the responsible accounting officer with a copy to the Controller of Budget and the Auditor-General.

(4) The County Treasury may prescribe the banking rules and the maximum balance which may be held in any official County Treasury Single Account sub-account or other bank accounts, and if at any time this balance seems likely to be exceeded, the officer operating the accounts shall consult the County Treasury on the action to be taken.

(5) No official county government bank account shall be overdrawn, nor shall any advance or loan be obtained from a bank account for official purposes beyond the limit authorized by the County Treasury in line with section 119(4) of this Act, and the authority shall be conveyed in writing.

I saw it is not very tidy, so, I want to amend it.

Hon. Temporary Deputy Speaker, I beg to move:

THAT, the following new clause be inserted immediately after clause 36—

“36A. the principal Act is amended by inserting the following new clause immediately after section 119 –

Criteria for approval to open bank account.

119A. (1) Subject to the provisions of section 119, the following criteria shall be considered by the County Treasury in granting approval to a county government entity to open and operate a county government bank account—

(c) all county exchequer accounts shall be opened at the Central Bank of Kenya;

(d) for avoidance of doubt, all county government bank accounts shall be opened at the Central Bank of Kenya except for imprest bank accounts for petty cash which shall be opened at a government-controlled or a cooperative-owned bank designated by the County Treasury.

(2) Except with the prior authority of the County Treasury, no accounting officer may open a bank account for the deposit, custody or withdrawal of public moneys or other moneys for which he or she is responsible in his or her official capacity or for the transaction of official banking business.

(3) The authority of County Treasury shall be conveyed in writing to the responsible accounting officer with a copy to the Controller of Budget and the Auditor-General.

(4) The County Treasury may prescribe the banking rules and the maximum balance which may be held in any official County Treasury Single Account sub-account or other bank accounts, and if at any time this balance seems likely to be exceeded, the officer operating the accounts shall consult the County Treasury

on the action to be taken.

As I move the New Clause 36A, the gist of this amendment which I want to move a further amendment to 119A(b)---

**The Temporary Deputy Chairman** (Hon. Cheboi): We really have run into headwinds. I really want you to start it afresh so that we know whether what is in the Order Paper is the correct position.

**Hon. A.B. Duale:** The Order Paper reads, which is typical, on top there:

“THAT, the following new clause be inserted immediately after clause 36—”

From the legislative department, we can amend so that it becomes “the principal Act is amended by inserting the following new clause immediately after section 119—”

**The Temporary Deputy Chairman** (Hon. Cheboi): By inserting the new clause, you will actually be inserting the principal Act.

**Hon. A.B. Duale:** That is fine. Let me go by the Order Paper but I am sure the Clerks-at-the-Table, who are on both sides will bear me witness. I might not be a Clerk but I was just trying to make it tidier. In that clause, if you allow me, I want to move a further amendment to (b). I want the House to go with me because I will read one after the other.

119A. (1) Subject to the provisions of section 119, the following criteria shall be considered by the County Treasury---

**The Temporary Deputy Chairman** (Hon. Cheboi): Hon. Leader of the Majority Party, you are putting us in extremely difficult circumstance because if you do a further amendment that we have not seen, it will become difficult to execute it because we do not have any further amendment.

**Hon. A.B. Duale:** I am allowed to do a further amendment and I want to read it out. If you allow me to continue, you will understand.

**The Temporary Deputy Chairman** (Hon. Cheboi): Let us see.

**Hon. A.B. Duale:** Yes, that is why I am doing it one by one. Can I continue?

**The Temporary Deputy Chairman** (Hon. Cheboi): Yes.

**Hon. A.B. Duale:** For the first time, I do not even want to say “as it is on the Order Paper.” I want to read it out one by one. It says:

“119A (1) Subject to the provisions of section 119, the following criteria shall be considered by the County Treasury in granting approval to a county government entity to open and operate a county government bank account—

(a) all county exchequer accounts shall be opened at the Central Bank of Kenya;”

I have no problem with that.

On (b) is where I will do a further amendment and I will read it:

“(b) for avoidance of doubt, all county government bank accounts shall be opened at the Central Bank of Kenya except for imprest bank accounts for petty cash which shall be opened at a government-owned bank designated by the County Treasury.”

So, I have only added “a government-owned bank”.

The rest are very clear. My justification for that is that this amendment is to address the issue of apparent claims of county governments and county entities operating a number of bank accounts.

*(Hon. Midiwo consulted Hon. Wamunyinyi)*

Hon. Jakoyo, you know Hon. Wamunyinyi is one of my disciples. I want him to hear.

The whole of that amendment is dealing with the issue of apparent claims of county governments, and county entities operating multiple accounts in many banks. So, we are saying they can have their accounts in the Central Bank of Kenya (CBK). The only account we can allow them, by law, is the one dealing with imprest; emergency. For that one, they must do it in a government-owned bank. Why am I saying this? They may, for example, take money to Chase Bank, earn interest or take it to banks owned by colleagues.

As we speak, Chase Bank has sunk with billions of shillings of parastatal money including the money from the National Government Constituencies Development Fund (NG-CDF). There are Members here whose NG-CDF is stuck in Chase Bank. So, we must protect the money we appropriate in this House.

Secondly, how do we ensure this? This amendment is trying to enforce the use of the Treasury Single Account with the operational account to be limited to Government-approved banks only and to ensure counties' own revenue is also remitted to County Revenue Fund.

As we speak, my friend the Governor of Nairobi, for example, collects billions in a day but that money does not end up in the County Revenue Fund because counties have opened thousands of accounts, even with SACCOs. They have even put their money in merry go rounds.

We are trying to streamline that so that even overdrafts, they should borrow from the CBK. They should not borrow overdrafts from any other banks because they borrow an overdraft when they are given a certain percentage. They should not keep our money in other banks to earn interest.

I really want the House to agree with me on these amendments. Even Hon. Gumbo is shaking his head because he is going to be one of the best governors who will protect public resources. If you are here and you want to become a governor, this amendment is good for you and the people of Kenya.

**The Temporary Deputy Chairman** (Hon. Cheboi): You are almost out of order, Hon. Leader of the Majority Party because you are arm-twisting Hon. Gumbo to support you by giving him some accolades which can only be realistic after 8<sup>th</sup> August 2017. What is it Hon. Jakoyo Midiwo? Let me hear you on this.

**The Temporary Deputy Chairman** (Hon. Cheboi): Order first. Let us do it in a tidier way. Let me first propose the Question.

*(Question of the new clause proposed)*

*(New clause read the First Time)*

*(Question, that the new clause be read a Second Time, proposed)*

The first shot will of course go to Hon. Midiwo.

**Hon. Midiwo:** Thank you, Hon. Temporary Deputy Chairman. I rise to support very strongly. A few years ago, in our quest to control interest rates, we attempted to go the Brazil way. As you know, that was a very long journey. I want to thank the President for having agreed with us finally.



In Brazil, no Government money is put in private banks. That is how Brazil moved up to the sixth largest economy in the world – by collecting and putting their money where they can control it. We must attempt to move these amendments during consideration of the Finance Bill for all parastatals. What is happening in parastatals, the CEOs and the accounting departments are placing Government funds--- If you hold Kshs1 billion in a fixed deposit account for three months, you do not need to steal. You have already been stolen for by the Government money. What we are saying is that the Chase Bank scenario must not happen with counties. We will make sure it does not happen with Government departments in the Finance Bill which is coming in a couple of months.

I want to strongly support this so that we collect our money and put in the hands of the Government so that nobody shall cry. There are rumours that NIS lost Kshs4 billion in Chase Bank. Many of us used to think Chase Bank is the American Chase Bank. We did not know it belongs to some Indian crooks.

**The Temporary Deputy Chairman** (Hon. Cheboi): Hon. Midiwo, do not speak of it in terms of rumours. If it is not confirmed, we can leave it at that. Otherwise, we will be casting aspersions on institutions without very good and concrete evidence. But you are doing very well, of course.

Proceed.

**Hon. Midiwo:** Hon. Temporary Deputy Chairman, I will not go that route. What we are saying is that this House has a duty to reorganise the financial sector. These governors have looted this country in a way that no country has ever been looted using public funds.

*(Applause)*

I was told by a bank manager that the day some governors want money, say like Kshs500 million, they only have to give 24 hours' notice and Securicor takes the money. Who in their right mind can have Kshs500 million delivered in their office? How do you begin to spend Kshs500 million of public funds even if you are a governor? Even though you are saying Hon. Duale was pouring premature accolades, I can confirm that my next governor is this gentleman here. I can confirm that so that Hon. Duale is vindicated.

I support.

**The Temporary Deputy Chairman** (Hon. Cheboi): Because you are a voter in that constituency, I will let you escape with that one.

Let me have the Member for Nakuru Town East. I will give a few more Members because I can see this is something that is--- I am sure we can spend a little more time on it so that we carry everyone.

**Hon. Gikaria:** Thank you, Hon. Temporary Deputy Chairman. I totally agree with the Leader of the Majority Party on this. It is very true that counties--- Nakuru County, for example, has 26 different accounts in almost 13 different banks. Most of the time when you want to pay for a service, there is a specific bank for a specific service. That has been designed for purposes of corruption and looting of the money.

In Nakuru, we used to have a court where they used to collect money that used to go to a bank of a SACCO or in the nature of a SACCO. Actually, it has never been given the certificate of being a bank. Up to date, people pay their cash bails and fines in court and they are never refunded. This is particularly cash bail to the tune of Kshs60 million. As the Leader of the Majority Party has said, we can have only one account for petty cash issues. That petty cash

issue, for purposes of operations in the county, must also go to a Government bank. That way, we will have some control.

On kickbacks, these banks give these county government officials some money when they open account in those banks. This is particularly the case in the finance departments. You will be very surprised to see that livelihoods of very young finance officers in counties have changed all of a sudden. That has arisen as a result of the multiple bank accounts opened for the counties.

I totally agree. If this is passed, I think it is going to take care of some of the issues that continue at the county level.

**The Temporary Deputy Chairman** (Hon. Cheboi): Let us have Hon. Regina Ndambuki, the Member for Kilome.

**Hon. (Ms.) Muia:** Thank you, Hon. Temporary Deputy Chairman. I also want to support the Leader of the Majority Party on this issue of county governments and the way they misuse money. We have to be very serious on this issue. If this was started long time ago, the cases we have had in the county governments of governors and their team misusing money---

I also want to support what my colleagues have said. In my county, I know very many people who used to be very poor now driving very big cars. They have also bought houses in every estate. The question is: What are we going to do with the issue of senators? Senators are supposed to monitor these accounts. They are supposed to monitor what the governors are doing. Even as we amend this and pass it, what are we going to do so that, at least, senators can also help?

**The Temporary Deputy Chairman** (Hon. Cheboi): Okay. Let us not debate now. You have made your point, the Member for Kilome. I will give the Member for Rongo a chance and that will be it.

**Hon. Anyango:** Hon. Temporary Deputy Chairman, I have some difficulty with the amendment. First of all, you say “government-owned.” Now, we know there is a distinction between owning, which is 100 per cent ownership and controlling, which is owning shares not necessarily majority but controlling shares. Unless that is defined, this amendment is vague. If you say “government-owned”--- As of now we do not have any government-owned bank. National Bank, which is the nearest, is not government-owned. The Government has minority shares. In KCB the Government has minority, but it has controlling shares. So, this has to be looked at again and properly defined.

On the second amendment the Leader of the Majority Party is proposing, what if in future those county governments own banks? When you are making law, you make it for several years. You do not make law to be amended tomorrow. So, if it is to be owned, ideally we should say “controlled by either the national Government or the county governments themselves”. I can see a future---

**The Temporary Deputy Chairman** (Hon. Cheboi): Hon. Dalmás, you have been very clear on that. The only small problem which I think is coming out of your argument is that you say that we do not have government-owned banks, which is a fact. Now, you want us to legislate about county-owned banks, which are not existent now.

It should be “national government or county government-controlled banks.” “Controlled” is defined within the normal legislation regulating banks. You see you would have made arguments both sides because on the one hand, we want the government-controlled banks other than owned banks because they are not there--- But we do not have county government-controlled banks. So, why do we not leave that for a future date? You have brought in a very

valid point which the Leader of the Majority Party can quickly address.

**Hon. Anyango:** If we leave it for a future date, this legislation will have the effect of blocking county governments from ever wanting to set up their own banks until the amendment is made.

**The Temporary Deputy Chairman (Hon. Cheboi):** Let us leave it at that. Let us hear the Leader of the Majority Party. I will give a few other Members a chance.

**Hon. A.B. Duale:** Hon. Temporary Deputy Chairman, I think the one on Government-controlled bank is in order. As to when the county governments will own banks, be it three or four years, this House will be in existence. We can amend any statute. We cannot amend ----

**The Temporary Deputy Chairman (Hon. Cheboi):** I think that is clear. Let us first clear the part of Government-controlled banks.

**Hon. A.B. Duale:** We cannot legislate for the future. The Chair of the Departmental Committee has been away. He is now back. For avoidance of doubt, all county governments shall have accounts at the Central Bank of Kenya (CBK) except for imprest accounts for petty cash, which shall be opened at Government-controlled banks designated by a county treasury.

**The Temporary Deputy Chairman (Hon. Cheboi):** Hon. Kathuri, the Floor is yours.

**Hon. Murungi:** Thank you, Hon. Temporary Deputy Chairman. I would like to support this amendment. However, my problem is the limitation that we are giving county governments on the number of accounts they should operate. We are now micro-managing county governments, which are autonomous.

**The Temporary Deputy Chairman (Hon. Cheboi):** That is not the position, Hon. Gathuri. As far as this proposal is concerned---

**Hon. Murungi:** The proposal is seeking to have only petty cash accounts in the said banks. Another issue is that sometimes county governments encounter problems. For example, when the IFMIS is not working, they go an extra mile to take overdraft loans from commercial banks so that they can support their staff and make payments. This provision will be limiting them. The IFMIS in this country is not perfect.

**The Temporary Deputy Chairman (Hon. Cheboi):** Okay. Let us hear Hon. Wamunyinyi.

**Hon. Wamunyinyi:** Hon. Temporary Deputy Chairman, the amendment we are making will have far reaching implications. I will give an example, which I would like the Leader of the Majority Party to take note of. The Co-operative Bank of Kenya – the bank that most of us do business with – is owned by co-operators. It is not owned by the Government. I do not even think that the Government has controlling shares within Co-operative Bank. This kind of amendment will lock out the Co-operative Bank of Kenya.

I agree with my colleagues that we need to look at it again. Are we going to provide limits for borrowing or how do we want to run this? I see that the Leader of the Majority Party wants to bring a further amendment. He should take this concern into account so that we do not end up locking out banks like the Co-operative Bank of Kenya.

**The Temporary Deputy Chairman (Hon. Cheboi):** The Leader of the Majority Party, that makes it clear why sometimes it is much better when we have some documented amendment proposals. As we look for the further amendment, we should have it here so that we do not have to change its terms every now and then. Remember, that is the position I talked about before, so that it becomes easier for us to look at it and make those decisions a little earlier. Let us hear what you have to say.

**Hon. A.B. Duale:** Hon. Temporary Deputy Chairman, this is part of legislation. What Hon. Wamunyinyi said makes sense. As he was talking, I was also writing. This is because I was writing the further amendment. This should be the last one.

“For avoidance of doubt, all county government bank accounts shall be opened at the Central Bank of Kenya except for imprest bank accounts for petty cash which shall be opened at a government-controlled bank or a co-operators-owned bank designated by the County Treasury.”

**The Temporary Deputy Chairman** (Hon. Cheboi): The only problem is that when you talk about co-operators-owned banks, you bring in even SACCOs. Let us hear what Hon. Chepkong’a and Hon. Makali have to say and then that will be it. Thereafter, you can make your decision, Hon. Members.

**Hon. Chepkong’a:** Thank you, Hon. Temporary Deputy Chairman. I rise to support the proposal by the Leader of the Majority Party. Most of us, if not 100 per cent of Parliament, have accounts with the Co-operative Bank of Kenya. As you know, this bank is owned by co-operators, including my own co-operative society called ‘Ainabkoi Co-operative Society’, which is a serious shareholder in the Bank. By locking out co-operators, we will neither be encouraging nor empowering people at the grassroots. They should be able to participate in the monies or taxes that are raised by Kenyans.

I support the amendment by the Leader of the Majority Party.

**The Temporary Deputy Chairman** (Hon. Cheboi): Hon. Mulu, you have the Floor.

**Hon. Mulu:** Thank you, Hon. Temporary Deputy Chairman. The intention of this amendment is very good. If you look at all the amendments being made to the Public Finance Management (PFM) Act, you will realise that they lean towards what we call ‘a treasury single account’. To me, this is the most important amendment out of the many amendments we have made in this law. This amendment is trying to help towards that end. I think we need to be a bit careful.

We have allowed county governments to open accounts with the CBK. I suggest that we allow them to open other low level accounts based on their own decisions. What is the definition and functions of the CBK?

**The Temporary Deputy Chairman** (Hon. Cheboi): Please, go to the point. This is not an issue for debate.

**Hon. Mulu:** Hon. Temporary Deputy Chairman, it is also important to educate each other. The CBK is called the bank of last resort. It is where you borrow when you cannot borrow from any other place. People do not deposit their money with the CBK. I think there are bigger economic issues to do with these amendments, which we might need to think through. My appeal would be that for this particular one where we are tying them to only imprests accounts, we should allow them for now as we think through this particular amendment.

**The Temporary Deputy Chairman** (Hon. Cheboi): Hon. Chepkong’a, what is your point of order?

**Hon. Chepkong’a:** Hon. Temporary Deputy Chairman, Hon. Mulu Makali is my good friend. He is a very good accountant. He needs to know that county governments can operate accounts with the CBK. They have operational accounts. I am saying this as an authority having been a former Chief Executive Officer of a parastatal.

Thank you.

**The Temporary Deputy Chairman** (Hon. Cheboi): I did not want us to protract it for a long time. However, let us hear the last one from the Member for Gem.

**Hon. Midiwo:** Hon. Temporary Deputy Chairman, I am sorry for coming back to the Floor. However, I just felt that Hon. Makali needs to understand that---Hon. Wamunyinyi, if you could just hear me. What we are trying to kill is the use of cash. Let us go digital so that if you pay somebody you would just have paying advice. This can work with the CBK.

The other amendment which we were further amending, is with regard to a situation where the imprest sum is Kshs1 billion. We are saying that, that kind of money should not be taken to a private bank for purposes of speculation. There is a lot of money belonging to counties speculating around in private banks. What we want to end up with is the bank. If you are in the County of Siaya, the only banks open to you are Consolidated Bank, National Bank of Kenya (NBK), Kenya Commercial Bank (KCB), Cooperative Bank and the Development Bank of Kenya. That will ensure that our monies are not touched. Most of the private banks have foreign connections. We must cure this.

*(Question, that the new clause be read a Second Time,  
put and agreed to)*

*(New Clause was read a Second Time)*

*(Question, that the new clause be added to the Bill,  
put and agreed to)*

**The Temporary Deputy Chairman** (Hon. Cheboi): Let us have the Mover first, Hon. Benjamin Langat.

**Hon. Wamunyinyi:** On a point of order.

**The Temporary Deputy Chairman** (Hon. Cheboi): What is out of order, Hon. Wamunyinyi? Use Hon. Makali's microphone.

**Hon. Wamunyinyi:** Hon. Temporary Deputy Chairman, on the amendment by the Leader of the Majority Party, we had agreed that he was to take us through the amendments, clause by clause and we had reached part (2). He had not taken us through Part s(3) and (4). He has not taken us through the same.

**The Temporary Deputy Chairman** (Hon. Cheboi): Hon. Wamunyinyi, we were doing the entire New Clause. Unless you have a problem with any other part, you do not have to explain anymore. It is gone.

**Hon. Wamunyinyi:** Hon. Temporary Deputy Chairman, you appreciate that we had agreed that he was to take us through the amendments one by one. Interjections were raised when we were at Part (b) and (2). He has not taken us through part (3) and (4).

**The Temporary Deputy Chairman** (Hon. Cheboi): It will be very untidy for us to open it up again. Unfortunately, it is gone. Hon. Wamunyinyi, I know you are a seasoned politician. It is unfortunate that is gone. Let us move to the next one. Let us have Hon. Langat. Who is moving the New Clause 40A? I can see the Vice-Chairman of the Departmental Committee on Finance, Planning and Trade. Are you ready? I understand the primaries are around the corner, but if you are not ready, we can drop that one.

*New Clause 40A*

**Hon. Gaichuhie:** Hon. Temporary Deputy Chairman, I beg to move:

THAT, the following new clause be inserted immediately after Clause 40—  
 Amendment of section 128 of No.16 of 2012 40A. Section 128 of the principal Act is amended in subsection (2) by deleting the expression “30th August” and substituting therefor the expression “15th September”.

We are increasing the number of days by 15.

**The Temporary Deputy Chairman** (Hon. Cheboi): For what are you increasing the number of days?

*(Laughter)*

I know you were ambushed.

**Hon. Gaichuhie:** Let me consult. We are removing the expression, “30<sup>th</sup> August” and replacing it with “15<sup>th</sup> September”, so that we can have more days. I have already moved the clause.

**The Temporary Deputy Chairman** (Hon. Cheboi): Since you have already moved, we want to tidy it up.

*(Question of the new clause proposed)*

*(New clause read the First Time)*

*(Question, that the new clause be read a Second Time, proposed)*

I will give the Leader of the Majority Party the first shot to put more meat to the proposal.

**Hon. A.B. Duale:** Basically, if you look at the current Public Finance Management (PFM) Act, it says that not later than 30<sup>th</sup> of August each year, the County Executive Committee Members for Finance shall issue a circular setting out the guidelines to be followed by all the county governments entities in the budget-making process. It is to take only 15 days, but he has proposed that we add 15 days more. Hon. Wamunyinyi, that is the explanation.

**The Temporary Deputy Chairman** (Hon. Cheboi): Hon. Gumbo, do you want to speak to this one?

**Hon. (Eng.) Gumbo:** Sorry. I had wanted to speak to the previous one.

**The Temporary Deputy Chairman** (Hon. Cheboi): You will make your decision. I see not many Members are interested to speak to this one.

*(Question, that the new clause be read a Second Time, put and agreed to)*

*(The new clause was read a Second Time)*

*(Question, that the new clause be added to the Bill, put and agreed to)*

**The Temporary Deputy Chairman** (Hon. Cheboi): Can the Vice-Chairman of the Committee represent Hon. Mutava Musyimi? You are proposing to delete that part.

*Clause 2*

**Hon. (Ms.) Otucho:** Hon. Temporary Deputy Chairman, I beg to move:

THAT, Clause 2 of the Bill be amended by deleting paragraph (c).

It is about the definition of “Government to Government loan.” It is noted that the definition includes among others a financial institution that is an intermediary between the Government and exporters. It is, therefore, our considered opinion that this does not fit in the definition. This may potentially open a situation where some institutions of questionable credentials would be involved in lending to Government and such loan be classified as being Government to Government. Therefore, the definition may be deleted and we revert to the usual definition that is currently in use which does not have any ambiguities.

*(Question of the amendment proposed)*

*(Question, that the words to be left out be left out,  
put and agreed to)*

**The Temporary Deputy Chairman** (Hon. Cheboi): There is a further amendment by the Leader of the Majority Party. Proceed.

**Hon. A.B. Duale:** Hon. Temporary Deputy Chairman, I beg to move:

THAT, Clause 2 be amended by inserting the following new paragraph immediately after paragraph (a)—

“(aa) in the definition of “short term borrowing” by—

- (i) deleting the phrase “bank-overdraft” appearing immediately after the phrase “Treasury Bills” and substituting therefor the phrase “Central Bank of Kenya-overdraft”;
- (ii) inserting the phrase “Central Bank of Kenya” before the word “instrument”.

This amendment is supposed to cure the problem of borrowing especially by devolved institutions or their respective entities from commercial banks by way of overdraft or other general instruments experienced so far. We want to confine such short-term borrowing, overdraft and other bank instruments only to the Central Bank of Kenya (CBK). This will ensure that there is prudence in the application of the short-term borrowing, which entails borrowing by the Government by way of Treasury Bills. They can borrow, but they do it through the CBK overdraft. By doing that, in terms of transition from one government to another, it can be accounted for. You do not just go to any commercial bank and get an overdraft of Kshs10 million and we do not know how you will pay it back. So, the import is about definition.

*(Question of the further amendment proposed)*

*(Question, that the words to be inserted be inserted,  
put and agreed to)*

*(Clause 2 as amended agreed to)*

*(Title agreed to)*

*(Clause 1 agreed to)*

**The Temporary Deputy Chairman** (Hon. Cheboi): That brings us to the end. I, therefore, ask the Mover to move reporting.

**Hon. A.B. Duale:** Hon. Temporary Deputy Chairman, the Member for Subukia is talking to me in his mother tongue and we do not come from the same region and community.

I beg to move that the Committee do report to the House its consideration of the Public Finance Management (Amendment) Bill (National Assembly No.4 of 2015) and its approval thereof with amendments.

*(Question proposed)*

*(Question put and agreed to)*

*(The House resumed)*

*[The Speaker (Hon. Muturi) in the Chair]*

## REPORT

**Hon. Cheboi:** Hon. Speaker, I beg to report that a Committee of the whole House has considered the Public Finance Management (Amendment) Bill (National Assembly No.4 of 2015) and approved the same with amendments.

**Hon. A.B. Duale:** Hon. Speaker, I beg to move that the House do agree with the Committee in the said Report. I request the Member for Subukia to second the Motion for agreement with the Report of the Committee of the whole House.

**Hon. Speaker:** Member for Subukia.

**Hon. Gaichuhie:** Hon. Speaker, I beg to second the Report of the Committee of the whole House.

**Hon. Speaker:** The Member for Sirisia should take his seat so that we can proceed.

*(Question proposed)*

Hon. Members, for reasons well known to yourselves, I will not put the Question. We move to the next Order.

## MOTION

REPORT OF THE PUBLIC INVESTMENTS COMMITTEE  
ON NSSF TASSIA II PROJECT



THAT, this House adopts the Special Report of the Public Investments Committee on the Procurement and Financing of the National Social Security Fund Tassia II Infrastructure Development Project, laid on the Table of the House on Wednesday, 30 April, 2014.

*(Hon. Keynan on 9.2.2017)*

*(Resumption of Debate interrupted on 14.2.2017)*

**Hon. Speaker:** The Mover to reply.

**Hon. Keynan:** Thank you, Hon. Speaker. Before I reply, in spite of the agitation from my good friend, Hon. Duale, for me to conclude very fast, with your permission, I want to donate two minutes to Hon. Wamunyinyi, who is also a Member of the Committee.

**Hon. Speaker:** You can donate.

**Hon. Keynan:** And another two minutes to the Leader of the Minority Party, Hon. Nyenze and to our ambassador, Hon. Gichigi.

**Hon. Speaker:** We have an ambassador here?

**Hon. Keynan:** *(off record)*.

**Hon. Speaker:** Well. I hear Committees have many sub-committees and yours has an ambassador not on Members' welfare. Hon. Wamunyinyi Athanas.

**Hon. Wamunyinyi:** Thank you, Hon. Speaker. This Report was as a result of an inquiry undertaken by the PIC into the particular case of NSSF Tassia II Project. You can see from the Report that there was fraud from the start.

The NSSF purchased land at Kshs.2.2 billion between 1992 and 1995 and the same land was allegedly sold by land buying companies to private developers. The land was sold to private developers who grabbed it and others just settled on the piece of land and divided it into 5500 plots. What the Government did is deplorable. The NSSF went to court and won the case against the land grabbers, but the Government and some particular people within, decided that the land should be left to the people who had grabbed it thus legalising land grabbing.

This is not something that should be discussed and accepted. We should be condemning it and appealing that nobody should grab land and then somebody somewhere legalises the action of land grabbing. That is tolerating evil and people who are not supposed to be in society.

The second issue is the non-implementation of recommendations by the Committee. Time and again, we have had the watchdog Committees, PAC and PIC, coming up with strong recommendations against people found to have misappropriated and stolen public funds or abused their offices. To my surprise and this House, no action has been taken. I am just hoping that this is going to change to ensure that people who are found to have abused public office and misappropriated funds are made to account for those deeds.

I want to comment on the Office of the Auditor-General (AG). We have heard of cases and particularly to do with the NSSF where the AG has attempted to remove unresolved issues from the records of this State corporation. We have raised this with the NSSF and other corporations. Where issues remain unresolved, audit queries are raised, evidence is taken, but not concluded, these must remain in the books until such a time when they are resolved. I want to appeal to the AG's Office to make sure that they remain focused, protect public funds and resources which have been assigned to them.

With those few, remarks I support the Report.

**Hon. Speaker:** Hon. Nyenze.

**Hon. Nyenze:** Thank you, Hon. Speaker. I support the Report which is very well written and referenced with 13 annexes. The PIC has done a good job and we commend them. In their observations, they have recommended a very good way forward. First, they want some investigations to be done on the collusion between the NSSF and the China Jiangxi Company. They should be scrutinised because they are the same people who win NSSF tenders every time. At the same time, the Committee recommends that the Tassia II Project be implemented so that the more than 20,000 members can have decent housing. We have a housing crisis in this country especially in low and middle income brackets and the recommendation is a way forward.

There has also been massive interference with the operations of the NSSF by the line Ministers. The Committee has recommended that this should be investigated so that we can know the true reason why there is such a high turnover at the NSSF.

**Hon. Speaker:** Let us have Hon. Gichigi.

**Hon. Gichigi:** Thank you, Hon. Speaker. I also rise to support the Report of the PIC and thank the Committee for coming up with a well-balanced Report.

They identified the real issues. As has been stated, the NSSF has a history of being exploited to buy land at exorbitant prices. If you read the Report, you will find that the land was bought way back in the early 1990s at the value that it would cost 20 years later. It was so inflated that when the NSSF tried to sell the land more than 20 years later, it could only fetch the amount it was bought at. The fact that some innocent and gullible Kenyans were duped into buying that land by some crooks and had put up very expensive buildings, it was only fair that they be told to pay the price to the NSSF. They were actually innocent purchasers. I urge Kenyans that whenever they buy land and put up houses, they should make sure that they verify the ownership.

I also agree with the Committee completely that the procurement processes of that entity be audited to ensure that the fraud that has happened in the past stops in the future.

I support the Report.

**Hon. Speaker:** Let us have Hon. Keynan.

**Hon. Keynan:** Hon. Speaker, with your permission, I still want to donate two minutes to Hon. Ngeno, who is a Member of the Committee.

**Hon. Speaker:** Let us have the Member for Emurua Dikirr.

**Hon. Kipyegon:** Thank you, Hon. Speaker and also the Chairman, for donating this time to me. I know the two minutes will be over before I mention anything.

I support the Report in totality. I only wish that the agencies which are meant to investigate further and deal with the issues that have been raised in those particular reports are serious. As a Committee, we have tabled several reports. This is another wake up call for other Committees. We, in the PIC and those in the PAC, table reports that we know will be of great benefit to this country and can help this country change the way parastatals and Ministries are run. The Report shows that most of the parastatals are ripping off taxpayers' money. I wish this matter is further investigated and dealt with profusely so that we can have a working parastatal and the taxpayers' money is properly utilised. The people who are working with those particular companies can have good housing.

I support the Report.

**Hon. Speaker:** While I agree with you, Hon. Ngeno, I appreciate that quite apart from the agencies to which recommendations have been made, our own Committee on Implementation should be active. We came up with the idea of that Committee so as to put more

pressure on those agencies to implement, so that when you get the implementation status, it is a true reflection of the desires of the Committee of the House and, indeed, the House.

Let us have Hon. Keynan.

**Hon. Keynan:** Thank you, Hon. Speaker. Again, with your permission, I want to donate two minutes to Hon. Gikaria.

**Hon. Speaker:** Even the Member for Nakuru Town East?

**Hon. Gikaria:** Actually, Hon. Speaker, what you have just said is exactly what I wanted to emphasise. Just to amplify what you have said, as a Member of the Committee on Implementation, these recommendations are in line and our business is after the approval by the House, assuming that the House will approve this. We have been doing this and I can see it is now starting to bear some fruit.

Just the other day, there was a recommendation by the PIC regarding the Youth Enterprise Development Fund and we have seen action being taken. Parliament should not always talk in vain. As a Committee, we should take up this matter to see whether the recommendations that were made have been adhered to.

**Hon. Speaker:** Proceed, Hon. Keynan.

**Hon. Keynan:** Thank you, Hon. Speaker. I want to take this opportunity to thank Members for their important contributions to this particular Report. I am sure, having been the Chairman of the PIC in the past, this is something you also understand very well. I have had an opportunity to look at the reports and it is something that you have also gone through.

The challenge here is that the NSSF is supposed to be a very important pensionary institution. Unfortunately, for the last two years, the NSSF has not had a confirmed Managing Trustee. On three occasions, there were advertisements which were later cancelled. That just tells you that somebody seated somewhere just wants to micromanage that very important institution. Whoever is appointed today will not even last for one year. It has had the highest turnover of Managing Directors in the history of any parastatal. This is something that, as a House, we must address and critically look at the NSSF Act to find mechanisms of giving tenure of office to whoever is appointed as the Managing Trustee. This is the only way we can safeguard the contributions of the taxpayer.

I am sure you are familiar with the history of this particular issue because it happened around the time you were the Chair of the PIC. The NSSF buys plots from wheeler dealers who immediately they receive the cash, incite their supporters, in the name of squatters, to take over the plots. The NSSF Managing Trustee or whoever is in charge goes to court. The courts make a determination, but instead of the NSSF executing that particular order, they are told that security agencies are not there. Eventually somebody makes a decision that the squatters should be given the piece of land. They then go back to court and say that it cannot be for free and that they should pay a token, but even the token is not paid. Eventually, the same brokers go back to the NSSF and request for the plots to be developed for them. This is something that is unacceptable in these modern times.

I am sure you have had an opportunity to look at this. If you go to countries like Malaysia, the NSSF of Malaysia is one of the most important institutions in that country. If you go to our neighbours in Tanzania, the Tanzanian NSSF is one of the best institutions in that country. The only thing that we see here are skyscrapers in the name of Hazina Towers and yet they add no value to the taxpayer. I am glad you are the Speaker of this House because you really understand the history of this organisation. One of the things that I urge the House to do is to

amend the NSSF Act, so that that Fund is given its special status through a statute so that regardless of who is in power, the contributions of pensioners are protected.

Secondly, Ministers who have been appointed to head the Ministry of Labour and Social Welfare go there with a mindset to manage the NSSF. This is something that must also be addressed through a circular or something like that. The former Minister for Labour just woke up one day and purportedly called a Press conference and said that he had cancelled tenders. This was investigated and died somewhere. Those are issues we must bring to an end.

Finally, it is not just enough for this House to produce reports. I am on record and I can predict that the most important and powerful Committee in the next House will be the Committee on Implementation. This Committee never existed in our previous Standing Orders. It is something that was decided in the last Parliament. I really want to challenge the leadership of the Committee on Implementation to take up this critical Report and ensure that those who have been indicted in it are held accountable. That is the only way we can be accountable to the taxpayers.

Hon. Speaker, as I conclude, I also want to plead with you that there is a very important report on the duty-free shops at the Kenya airports. The report has been lying before the House Business Committee (HBC). It analyses procurement and everything pertaining to duty-free shops from 1989 to 2016. Through you, because you are the Chair, I really want this report to be fast-tracked, so that Members can get an opportunity to understand, debate and appreciate what goes on at the Kenya Airports Authority. Through you and Members of the HBC who are here, I urge you to fast-track that report so that we can get an opportunity to really protect the taxpayers' money.

With those remarks, I beg to reply and urge the Members to adopt this report. Thank you.

**Hon. Speaker:** I can see Hon. Nyenze, Hon. Midiwo, Hon. Wamunyinyi, Hon. David Were; all Members of the HBC. They have heard your plea and the Clerk's Office is accordingly instructed to ensure that, that report is given priority in the course of next week. This is the Report on Duty Free Shops. The Clerk will prioritise that.

We may not put the Question, again for the reasons that are obvious. Next Order.

## Bill

### *Second Reading*

#### THE BETTING, LOTTERIES AND GAMING (AMENDMENT) BILL

**Hon. Speaker:** Member for Matungu, you are on intervention.

**Hon. Were:** Thank you, Hon. Speaker. Just like it happened last week, we have not met all the stakeholders who are important when it comes to this Bill. Officers from the Kenya Revenue Authority (KRA) appeared before us, but unfortunately, the Commissioner-General did not come. The two Commissioners who were sent to appear before us did not have a clue on the Bill that is before the House. So, we sent them back to ask the Commissioner-General to appear before us in person next week on Tuesday, together with the Cabinet Secretary (CS) for the National Treasury.

Today, we met some of the stakeholders on this issue. I request that because of the weighty issues that are contained in the Bill, we be given time, so that we can interrogate the

matter properly and give a report to the House that can guide it in debating the Bill. Without that, we will not be doing justice to the Bill, which has attracted a lot of attention and talk out there.

It is my request that we defer the Bill for another two weeks to enable us to interrogate and come up with a well thought-out and well written report to guide the House in debate. That is my request.

**Hon. Speaker:** Hon. Member for Kipipiri, what is your intervention?

**Hon. Gichigi:** Hon. Speaker, I am also a Member of the Departmental Committee on Labour and Social Welfare and we have been toiling and moiling on this particular Bill. It has certain provisions that have a potential of completely killing the emerging industry. It also has some very good provisions which need probably to be enacted, so that we can protect the society.

The truth of the matter is that for us to come up with a comprehensive law on this particular sector, we need to engage all the stakeholders. What my Chairman did not indicate is that we also met the Cabinet Secretary, Hon. Nkaissery, on this particular issue and the board members.

We have also lined up about another four stakeholders that we need to hear from. Hon. Nkaisserry himself suggested a meeting because they also have serious amendments they are proposing that we make to this law. This needs probably a day or two.

It appears that there is undue pressure to pass this law for some motives that are not very clear. Let us be given an opportunity as a Committee to meet all the stakeholders and let us guide the House using the information that we have. Let it not appear that it is an emergency that the Second Reading of this law must be done today or tomorrow yet we have many Bills that came to the House before this Bill. I understand the urgency, but let it not appear that there is something on fire. People out there are reading ulterior motives. It is important that we are given a chance to help this House with the necessary report. Give us a chance to do our work, please.

**Hon. Speaker:** There are several interventions. Are they all addressing the issue raised by Hon. Were? Okay, let me follow them in the order they are. Member for Kanduyi.

**Hon. Wamunyinyi:** Thank you very much, Hon. Speaker. The issue raised by Hon. David Were is not out of the ordinary. We have had such requests in the past where a Committee Chair or Committees have requested for time to look at reports and possibly take evidence, listen to the public or stakeholders for that matter.

While this has been so, you have previously ruled on this. Before I go to that, I wish to note that the House has a constitutional mandate to legislate. Legislation is a process. It is not a one-off affair where you do something today and it ends the same day. It is a process. This Bill came for the First Reading and is now at the Second Reading. The Second Reading avails an opportunity to Members to ventilate, debate and raise issues which do not necessarily mean they support it. You can oppose or support it. You can also raise comments that can be considered for amendment when it comes to Committee stage. So, this House has an important unique constitutional mandate to legislate, which should not be interrupted. It should not be interrupted and disrupted by any outside body.

If there are requests from anybody to suspend this Bill, which has been pending and we have discussed at the HBC, it is important that you allow debate to go on. Let Members who wish to oppose it, oppose it and those who want to support it, support it. Most importantly, if there are any amendments that can be introduced by the Committee, they can be brought at the Committee of the whole House stage. This will allow Members in the House to decide. This is not a final stage of this Bill. It is a process that is on-going.

I wish to propose that debate on the Bill before the House goes on and any other processes, amendments or suggestions, can be brought in the next stage.

**Hon. Speaker:** The Leader of the Minority Party.

**Hon. Nyenze:** Thank you, Hon. Speaker. I just want to request the House that since the Member for Matungu, Hon. Were, the Chairman of the Departmental Committee on Labour and Social Welfare, has made a good request that the Committee be given more time to come up with a good law which will be water tight and will cover everything, the best thing to do would be to give him that time. His Committee is composed of over 20 Members.

I wonder why there is haste. There have been two attempts at this law. The other time, I said I smelt a rat. Why the haste now if there is a Committee that is committed to addressing this very important Betting, Lotteries and Gaming Bill? A Committee would do a better job than one or two people. There have been those attempts and I am appealing to Members of this House to be patient. We have worked before as a team and we will still work as a team. Can we resist these attempts to bring in some amendments at this time when the Committee, which is entrusted with that work, has not finalised? Once we bring these amendments, within a very short time, all these things will be watered down. Can we get time, finish and come up with a good law that will cover everything? Everybody knows that betting, lotteries and gaming is big business. Betting supports sports. It could also bring development and could be a big employer. There is a Departmental Committee in charge, but I wonder why attempts have been made every time in a bid to sort of side-step the Committee and bring amendments.

I oppose this.

**Hon. Speaker:** I see there are quite a number of interventions. At some point, the Mover will have to be given an opportunity to say something. Hon. Midiwo, just take note. I can see the Member for Nakuru Town East.

**Hon. Gikaria:** Thank you, Hon. Speaker for giving me this opportunity to try and ventilate on what the Chairman of the Departmental Committee, the Member for Matungu, has just said. I am a Member of the Kenya Football Federation and we have been a huge stakeholder in the betting industry in this country for the last two years. The Federation is a big stakeholder because most of the betting companies focus on sporting activities like football and rugby. I was looking at Article 109 of the Constitution on how we are supposed to legislate. A Bill can come from a Member of Parliament or a Committee. We totally agree with that. The Bill must follow due process, especially public participation, which must involve the relevant stakeholders. The Constitution, under Article 1(2), states that the people may exercise their sovereign power either directly or through their democratically elected representatives. As a sporting nation, the introduction of betting companies has transformed the sporting activities. We were not doing very well. We had some administrative issues in football, but now things have changed. We are now very accountable and it is because of the betting companies that have injected a lot of money in the sporting industry.

I am told that our partners, the Kenya Premier League, appeared before the Committee today where they presented themselves as a company that runs the topflight football in the country. The Federation has funds. We have football clubs coming up at the county level and betting is done at the grassroots too. We would also want the benefits to trickle down to the grassroots. Bringing this legislation in such a hurry might curtail and kill the talent that exists in the sporting industry. Just the other day, our country was ranked above 140 in terms of football. In the two years that the sport has enjoyed betting sponsorship, we are now at 75. It just shows the improvement. Things could only improve further if we put in place good legislation.

With those remarks, I totally agree with the Chairman of the Departmental Committee on Labour and Social Welfare that we give the Committee some time.

**Hon. Speaker:** Member for Kikuyu.

**Hon. Ichung'wah:** Thank you, Hon. Speaker. I draw reference to something you said yesterday regarding Members' participation during the Second Reading. Consequently, when we come to the Third Reading, all the things that we put forward during the Second Reading are not put into action in terms of amendments.

I heard what was said by the Chairman of the Committee and Hon. Wamunyinyi, and it is true. I want to support what Hon. Wamunyinyi said that legislation is not a one-day event. It is not that when we start the Second Reading today, this process will come to an end today. There is nothing that stops the Committee from listening to people even as the Second Reading continues. You could bring everything that you have collected from stakeholders in the form of amendments during the Third Reading. The Leader of the Minority Party has just said he smelt a rat. I do not know where the rat is. The rat could also be in these attempts to delay debate. If there is a rat being smelt, the Leader of the Minority Party must smell it in the attempts to derail debate. It is not just about derailing debate during the Second Reading, rather, it is probably to derail the whole Bill.

Hon. Gichigi, the Member for Kipipiri, has asked about the urgency of the Bill. Indeed, there is urgency. There is urgency because we have seen very young productive Kenyans killing themselves in our campuses after squandering their money through these betting companies.

Everything has got its own merits and demerits. The betting business has its merits and demerits. As legislators, we cannot be curtailed from doing our work in legislation and representing those innocent young people in this country who are suffering because of some of these betting companies. We are not saying that we need to outlaw betting in this country. We are only saying that we want to debate and look at the merits and demerits of betting and its participation in our national economy. We must begin to ask ourselves the hard question: How much taxation is being paid? On this Floor last year, we added some 7 per cent levy, but there is still a lot of money that is being laundered out of this country without taxes being paid.

**Hon. Speaker:** Now you are debating the merits. The point is whether we suspend debate or not. If all of you begin discussing the merits, then we might as well allow the Member for Gem to move the Bill. I must caution that even as we do whatever we must do, remember Article 118 of the Constitution has been cited in a number of court decisions where there has not been adequate public participation. We must also appreciate the fact that the Committee is already doing that and they can continue. Also, a few minutes ago, I was discussing something with the Member for Rongo and he notes that at the Committee of the whole House, it is only fair that amendments be minimal. You cannot bring amendments that tend to change the law, even as a Committee. The Committee can bring a report to say that they do not like the Bill as it is. Efforts to amend all clauses including some that have not even been debated must be curtailed. Member for Kikuyu, do we proceed or not?

**Hon. Ichung'wah:** Hon. Speaker, we should proceed and allow the Committee to listen to other stakeholders. Members can bring their amendments during the Third Reading. Allow us to debate and articulate on issues that affect our people.

**Hon. Speaker:** Member for Rangwe.

**Hon. Ogalo:** Thank you, Hon. Speaker. What will extension of time achieve? The Bill has been published and read the First Time. It is now on the Floor of the House for Second Reading. In my view, meeting all the stakeholders would be generating a raft of amendments.

We are not going to change the law in the Second Reading. You cannot withdraw the Bill and write a new law by the Committee. The Bill should be debated the way it is, but the Committee should come up with amendments. I do not know why we should be stopped from debating this Bill now when the Committee has an opportunity at the Committee of the whole House to submit whatever amendments they generate from meetings with stakeholders. The biggest public participation in Kenya happens here.

**Hon. Speaker:** Hon. Ogalo, you are totally wrong. The courts have interpreted public participation differently and we go by that. Public participation is not in the plenary. It is public. This is not public because we only have Hon. Members of the House. Member for Rangwe, be advised and corrected.

**Hon. Ogalo:** I agree with you on the fact that what happens here is not public, but we represent the public. The Committee has the Bill before them and anyone with amendments can submit them to the Committee, which would then bring to the House.

**Hon. Speaker:** Do you want to be informed by the Member for Kipipiri?

**Hon. Ogalo:** I do not want to be informed because I am sufficiently capable of canvassing my point. The Bill was read here for the First Time and the Committee had enough time. I have never seen a Bill brought for Second Reading and withdrawn. It was brought for Second Reading last time and the Committee requested for more time. It has been brought for Second Reading today and the Committee still wants more time. What time are they looking for? If this Bill is so important to them, why are they not prioritising it? Let us go on with the debate.

**Hon. Speaker:** You have made your point. Let me also correct you and unless you suffer from momentary lapses of memory, Bills have been withdrawn before to give Committees more time. It is not a first time that this is happening. Let us have the Member for Seme.

**Hon. (Dr.) Nyikal:** Hon. Speaker, Members are saying that they smell a rat, but I think there is more than one rat here. The first time this Bill was brought to the House, there was a lot of opposition and matters were raised. It was actually sent back to allow more consultations and was to be brought later. That is over two months ago now. It is now here and we are still saying that we need more time for consultation. I do not understand that.

Hon. Speaker, you have at times ruled that as much as it is important to get Committee's reports, discussions can go on while Committees are going on with their consultations. I do not expect this Bill to be discussed and disposed of today. The Committee can hurry up and bring the report, but we should not stop the discussion now. We are coming to the end of the 11<sup>th</sup> Parliament and if Bills are delayed, some may lapse. This is an important Bill and I am of the opinion that we continue with the discussion and the Committee proceeds with public participation.

In the past, I have noticed that public participation occurs during the Second Reading. Let us proceed with the debate of this Bill.

**Hon. Speaker:** I would have actually made my ruling without much ado. There is a lot of interest, but not smell, either foul or sweet. Mover, what is your view?

**Hon. Midiwo:** Hon. Speaker, I am not surprised. Two Tuesdays ago, the Cabinet Secretary for Interior and Coordination of National Government, Hon. Nkaisery, appeared before the Departmental Committee on Labour and Social Welfare and the day before, if you look at the letter before you, which purported to take over this Bill, Hon. Nkaisery did not have any Bill. In 24 hours, he had a Bill. I have been around this Parliament for 15 years and I am not stupid. No process has been broken. I hope you do not succumb to the unlawful threat.



*(Hon. Ichung'wah and Hon. Kang'ata consulted loudly)*

**Hon. Speaker:** Member for Kiharu and the Member for Kikuyu, this cannot be a wrestling ground. What you are attempting to do to one another is very strange, whatever the motivation.

**Hon. Midiwo:** The Government, through Hon. Nkaissery, purports to have another Bill which is not published and my Bill, which has matured, to wait for it and the Committee Members, who know the Standing Orders, are entertaining that.

Hon. Speaker, I heard what was said on the corridors today. Last year, out of my interest about the effects of gambling and betting, I formed a Parliamentary Committee to investigate. On the first day, I was supported, but on the second day, no single Member was with me. I did not give up. I want to share some facts with the Members. Fourteen years ago, I came here with a Banking (Amendment) Bill to control interest rates. I have been there before and have seen this. They made sure that there was always something. The banks would always see Members and the legislation met roadblocks. That was different because a very small part of the Kenyan population is banked, but betting affects all constituents. It is a serious menace in this country. I heard a Member on the corridor saying "*Hii tunaangusha*". I am sure some Members have not even read the Bill.

*(Hon. (Ms.) Muia consulted loudly)*

**Hon. Midiwo:** Hon. Speaker, please, save me from Hon. (Ms.) Regina Muia, who is acting like a jilted lover.

*(Laughter)*

She is my former neighbour. Nothing is before this House that can stop the Committee from proceeding with public participation. They can even go up to next year. Article 95 of the Constitution is very clear. Whatever is happening here is just because nobody understands the rules of this House. It would be nice if you give Hon. (Ms.) Regina Ndambuki even a minute to tell us the Standing Order under which she is opposing a Bill which has not been debated.

**Hon. (Ms.) Muia:** *(off record)*

**Hon. Midiwo:** I can.

**Hon. Speaker:** That is not part of our rules. Hon. Midiwo, I think the point you are making is that you are ready.

**Hon. Midiwo:** I am very ready, Hon. Speaker.

**Hon. Speaker:** I can gather that.

**Hon. Midiwo:** Hon. Speaker, I beg you to make a ruling.

**Hon. Speaker:** Hon. Members, I have heard what has been said and I said it is because of the interest that I noticed. Of course, you are all alive to the work of the House. Nobody except Parliament at the national level has authority to make provisions having the force of law. So, it is Parliament. Parliament is both this House and the other. It is within your powers to make any law as long as it is in conformity with the Constitution. When the legislative proposal by Hon. Midiwo was presented, we took it to our Legal Department and it was examined. It was taken through the Budget and Appropriations Committee and they okayed it for purposes of complying with the provisions of Article 114, read together with Article 109 of the Constitution.

The legislative proposal before the House is proper, but it is also within your power to propose any amendments except sometimes last year you decided to deny yourselves the authority to propose amendments to legislative proposals. You know that particular instance. However, it is within your power and mandate to propose any amendments. I am alive to the discussions that I have just heard concerning amendments from the Member for Rongo, who is a very experienced Member of this House. I am also aware of court interpretations of amendments introduced on the Floor of the House that are so substantial that the courts have said that they had not received any public participation and, therefore, to that extent, they are declared null and void. I am saying this because seeing the interest that is there and hearing the Member for Matungu, the Chair of the Committee concerned, and a few of his Members, I appreciate that there is need to listen to various stakeholders. However, at the same time, the House cannot be stopped from doing what is legitimately its mandate.

Therefore, my direction is that the Member for Gem, who is the Mover of the Bill, proceeds to move his Bill and the House debates it, but given what has been said by the Departmental Committee on Labour and Social Welfare, the House may not conclude this debate because it is only fair that we hear what has come from the stakeholders and other members of the public. So, Hon. David Were and Members of his Committee, I will deliberately not allow you to participate at this time because you may actually get information that will be much more useful to the House and appreciate the role you have to play as a Committee, especially the Chairperson of the Committee. I think his contribution will be based mainly on the report the Committee will come up with which is not limited to only proposing amendments. His Committee can even come with a report proposing to the House to reject the Bill in entirety. That again, is within the powers of the Committee to do. However, I think at this point it will not be fair, having on this same Floor directed that the Bill will be on the Order Paper this week. The Bill was on the Order Paper yesterday as has been directed, but it could not be reached. It will be unfair and denying the Member for Gem the opportunity to exercise his freedom to legislate or to propose legislation. It is up to you Members, like the Member for Kanduyi said, if you are not happy with any of the provisions or with the entire law, you can still reject it. But I think it will be unfair for the Chair to prevent the Member for Gem from procedurally prosecuting this legislative proposal.

Therefore, I rule that we proceed. Let us allow the Member for Gem to move his Bill. Hon. Members, I appreciate what the Chairman has said and I have covered it in this Communication. We will proceed as a House guided by its own rules. So, whenever you think that there is something, including if you think there are rats or cats, please, you are at liberty to say so. There is nothing wrong with people smelling things. Some could be smelling roses. Today is only 16<sup>th</sup> after 14<sup>th</sup> of February. So, the roses must have started decaying and drying up. Let us allow the Member for Gem to proceed, but we will also observe the Communication that the Member for Matungu, the Chair of the Committee, will have to continue hearing the public because again, that is also important in terms of Article 118 of the Constitution.

*(Hon. Gichigi stood up in his place)*

This is the problem with these Members who after four years have not learnt even the simplest of the rules of the House. It is accordingly so ordered. Let us have the Member for Gem.

**Hon. Midiwo:** Thank you, Hon. Speaker. I thank you for your ruling. You can see my good friend, Hon. Gichigi, was only here waiting for your ruling to be negative. How I wish he could hear me. That is also his right.

Hon. Speaker, I beg to move that the Betting, Lotteries and Gaming (Amendment) Bill 2016 be now read a Second Time.

First of all, I want to communicate with the Departmental Committee on Labour and Social Welfare, chaired by my friend, Hon. David Were. We cannot achieve much for our country if we work at cross-purposes. I also want to tell you that my intentions here are noble and I am only acting because of public petitions and my own experience with this issue of gambling. I also want to reveal that I am surprised that the Ministry of Interior and Coordination of National Government, which called me to a meeting and told me very many things which are wrong with betting and gambling, is now backtracking after telling me that my Bill was comprehensive and they had no other thing to offer. Their draft Bill was produced in 24 hours. I think it is strange that a draft Bill can be used to stop a Bill which has already matured before the House and gone before the processes.

Last year, I attempted to bring a Motion that this House establishes a committee to look into the problems that Kenyans are complaining about. Every time you look at the newspapers, you see news like somebody killed his wife in Nanyuki because the wife gambled away all the money they had in the hope that they could make more money.

Hon. Speaker, I am going to be factual and talk about this issue of gambling. It will be nice for this House to know that the issue of online betting, which is why there is so much interest in this Bill, is not regulated. There is not a single law in our country that regulates online betting. This is a scenario where a few people have colluded with foreigners and they are making more money than the Government of Kenya. I want to talk particularly now after things I have heard in the corridors of Parliament. I want to plead with my colleagues from the Jubilee side because this is our country to protect the Government. It is important that if somebody is pilfering from the Government, you as a Jubilee Member of Parliament have a responsibility to be the first one to protect the Government. We cannot collude with people of bad and ill intentions for our society. Let me tell the Committee and the House that many people have contacted me and I have told them we must deal through the Committee. We are not trying to abolish gambling and betting because our Constitution has allowed gambling and gaming. We cannot abolish it using ordinary legislation without changing the Constitution. The same Constitution requires us to firstly, as a Parliament, deal with issues that affect our society as Members of Parliament. The same Constitution requires us to produce and legislate enabling laws. As you know, you can be sitting here as we are and probably some of us are gambling on our phones; the same thing your five-year-old smart child can do at home. The same thing applies to our kids who are in universities and high schools.

Hon. Speaker, about three months ago, three girls from Nakuru County were enticed to gamble their school fees on their way to school. Since one of them had a phone, they gambled all their school fees and when they got to school they were told to go back home. The three girls got married to a flower seller because they feared to go home. These are underage kids. This country cannot always be that we look after the selfish individuals and their interest. When we debate, I am not an angel. I may have put things here which you may not like but let us debate them and then amend. But you cannot tell us that an industry that makes more than a billion shillings a day can happen in an environment without law. I can tell you because I have the facts; the few online betting companies that are making money, make more money than the Kenya

Revenue Authority (KRA). These companies are many now and to get a licence is pricey. The platform which they use to bet is a foreign platform. Someone is saying *ataangusha*. Whatever this House is doing will come to haunt your children and your great grandchildren. It cannot always happen like that. I have invited people. That is the purpose of a committee. I have told all of them that if there is anything that is offending them, let us put in law.

In 1999, as superpower, the State of Russia abolished gambling and betting. They said, it cannot happen in their country that you curve that kind of addiction where people are gambling their lives away. Here, we are willing to have these people do their business but we want the State to know what they are doing. If Nkaisserry is an honest man, he would share with the Committee the intelligence information about the betting and gambling companies which he shared with me. But because some people think they can always use their shenanigans using money to make sure that the society is not organised, they think they will see us, but David Were is here with his Committee. Let us sit; we are not putting them out of business. Let us sit and agree on what is best for our country. Some law can happen. I want to disclose that many of those companies have talked to me and I told them to bring their proposals. Parliament cannot misuse its authority to take people out of their imagined businesses or businesses that they have their money to establish. It is only fair that Parliament is not intimidated when it is trying to do its work. There is an attempt and some imaginations that this Parliament will be intimidated under your leadership. It will not. Fourteen-and-a-half years ago, my predecessor, Hon. Joe Donde, when I got here, told me: "I was following the thing of interest rates, and if you do nothing, please finish my work." We are friends until today. When I came here, I inherited the Joe Donde literature and started the work on interest rates. One day, the former Secretary of State Hon. Muthaura called me and said: "Hon. Midiwo, the President is looking for you." At that time, I had put an amendment that had stopped the Finance Bill from passing because I knew that is the only way we could nail the banks. When I went to see the President, I found the Prime Minister, Hon. Uhuru Kenyatta, Hon. Kimunya and Hon. Githae sitting there. They told me that to control interest rates is a bad thing because we have a free economy. When I got a chance to talk, I told His Excellency President Kibaki: "You are naked, but these people cannot tell you that you are naked. They are telling you to walk on the streets, but they fear to tell you that you are naked." The President looked down and then up and said: "I think the young man is right. The banks are exploiting Kenyans."

**Hon. Ichung'wah:** (*Inaudible*)

**Hon. Midiwo:** Well, I want to thank him. Fourteen years later - when somebody does something right, you say thank you. I must thank the President for signing the Bill on interest rates. Now we want to deal with them in the next level. Those same banks came here and lobbied. This is what is happening now with the betting companies. Nobody knows who is licensing them. They are here. There is somebody called the Chairman of the Betting Board. Which law is he using to license online betting companies? The other day he wrote in the *Daily Business* castigating Parliament. He said he is not consulted because he knows this Bill is throwing him out. We want to put a proper authority to run this crooked industry. If Russia can do it, what is Kenya? In the United States of America people only gamble in casinos, there is no phone or online gambling. What is Kenya? Go to casinos if you want to gamble. This is a real thing. When my friend, the Senator for Nyeri County, Hon. Mutahi Kagwe, saw that I had brought this thing he called and told me that in every street corner in Nyeri, there is a slot machine and there is chaos in the evening because everybody is trying to double their money. We are playing God with money.

I took time to look at these scenarios, the Chinese scenario with these slot machines and the sports betting, the online thing. My friend, Hon. Gikaria, talks about sport companies which are benefiting. He is not talking about the Kenyans who are dying and gambling their lives away. Would you compare a football team and Kenyans losing their livelihoods even at this time of hunger? Would you? Really? What is a football team? I am a staunch supporter of Gor Mahia. It has always been there, even before I was born - without *SportPesa* and *mCHEZA*. Why are they giving Hull City Kshs3 billion and giving Gor Mahia just uniforms? We want to regulate them.

**An Hon. Member:** On a point of information.

**Hon. Midiwo:** I am not interested in your information. Not now! I am on a roll here.

*(Laughter)*

Before I even go to the substance of the Bill, I want Members to hear me.

**An Hon. Member:** I know Gor Mahia better than you!

**Hon. Midiwo:** You cannot know Gor Mahia better than me.

Hon. Speaker, the effects of what is happening in a lawless manner are there. The biggest one is money laundering and tax evasion. I was with the Chief Executive Officer (CEO) of *SportPesa* on Jeff Koinange Live at KTN. Jeff Koinange asked that CEO: "How many people bet on your platform everyday and what is the average bet?" He said: "Six million people bet on our platform with an average of Kshs100 a day." That is Kshs600 million that a few individuals are making. I asked him: "How much tax did you pay last year?" He said that Kenya Revenue Authority (KRA) has never gone to them, but they paid Kshs85 million last year. A person who makes Kshs600 million a day pays only Kshs85 million in a year. We are in the plane in the morning; we are in the plane at night and we are in the plane in the day going to China to borrow money and loading it to our unborn children. We do not want to put those people out of business. They must come to the table.

You have given us an opportunity to debate. Hon. Gichigi says that there is undue pressure. I have not pressured anybody. I only came to the House Business Committee and asked for the status of my Bill. It had matured. It was listed. It is my privilege as a Member of the House Business Committee to do that. Why would I be prioritising other people's Bills and mine, which has matured, is not prioritised?

We want to work this out. Members of Parliament, let me plead with you. Despite what your interest may be, please save this country. Kenyans are telling us that we must do something. There is no reason for a slot machine to be in Nyadorera which a Chinese man comes to inspect every so often and gives the shopkeeper 10 per cent. That shopkeeper does not declare that income. Nobody knows those Chinese. It is estimated today - according to Nkaissey's Office and according to his officers in his presence - that 50,000 of those slot machines are here. About 50,000 of them have found their way into this country. Those are 50,000 stations where people are putting money and income is not declared. Where will our country get money from?

Hon. Speaker, this Bill is an Act of Parliament to amend the Betting, Lotteries and Gaming Act and provide for a legal framework for regulating and, controlling gambling activities, and for connected purposes. It is a legal framework. Online betting is allowed in England, Hon. Gikaria, but you can only bet in a certain radius. There is an amount of money that you can bet per day, so that it does not affect you even when you are addicted. It is specified. Your phone, - that is the phone you use - if you leave the radius of Nairobi County, it switches

that application off. So, somebody in Kisumu cannot bet through a gambling company in Mombasa. It cannot be free for all. That is the only way we are going to actualise the functions of the counties as set out in Schedule Four. The functions or powers of county governments allow them to have games and control gambling licences for social activities or for development activities like building hospitals and roads. They can even use it for specific reasons.

As it were, the reason why this thing is so hot is because the counties have no chance as envisioned by the framers of our Constitution. They have no chance because there is a national platform. Let me tell you because Members may not know. The company that controls that betting platform is Safaricom. Last week, I said it here that we must split Safaricom into three companies. We must. Any responsible nation can do that. Safaricom is the reason why banks are firing Kenyans from the formal sector which has good jobs. It is because they are doing banking activities; they are doing things like gambling; they are doing taxi business and they are doing all kinds of things. That is another law I am also working on. It will be as controversial as this one, but I am working on it because I understand if we do not do it, nobody else shall.

Who is Safaricom? Safaricom is 70 per cent owned by Vodacom and some shadowy figures called Mobitelea. So, for all that money, you are giving those people 70 per cent. That money is finding its way to foreign countries. How shameful is that for us as Kenyans! If we do not say it, why are we here? Why are we here if we do not say this? We cannot be intimidated by a few people who want to get rich. I have had a chance to live in a foreign country for many years. No country on earth has individuals, in their small majority, being richer than the government. It is governments that have money because it is governments that provide services. It is governments that do roads. But when you have private individuals doing what is happening with this gambling thing, in a few years, maybe even now, you will have individuals who can say: "President Uhuru Kenyatta, you are leaving State House tonight." They will have capacity because they have money. Nobody knows where that money is or which foreign country that money is kept in. We cannot allow a scenario where KRA does not know the nationalities of some individuals living here.

For some of those companies, one of the things that are worrying them so much is a clause in this Bill that says that those licences must be owned by Kenyan citizens. I was told by a Member who was arguing on the Floor of this House with the late Otieno Kajwang' that, when he proposed - and it is the law - that all somebody has to do is to marry a Kenyan to become a citizen, he did not know that one of the owners of the companies doing that thing is a Bulgarian married to a Luo girl. That makes him a citizen who can make Kshs600 million shillings a day. One of the other partners is married to a Kikuyu girl. That makes him a citizen who can repatriate our money. He can make Kshs600 million a day and repatriate it using the Safaricom platform to a country we do not know.

Hon. Speaker, I saw something being suggested that this House must allow KRA, through a law, to audit Safaricom properly. They are making money. It is a good company and a good employer, but that is all it is. The enjoyment is in the 70 per cent that is not owned by you. Therefore, we must break it up to locally-owned companies that KRA can control, so that, that money can build roads in Isiolo, Nyeri and Mandera. We must do that. This is not a trivial thing, my colleagues. It cannot be and it shall not be.

It may not pass, the way I see it, but the facts must come out. I doubt because I heard you.

**Hon. Wamunyinyi:** Some Members will not be here to pass it!

**Hon. Midiwo:** Hon. Speaker, on a light touch, you must protect me from Hon. Wamunyinyi. He is saying that there are many Members who are never here. In fact, by this

time, it is usually just about the four of us. Today, this is good. I have quorum. How I wish you had made the ruling that the Committee must do something before we finish. That is because we could have put the Question so they can even defeat it.

Gambling, in definition, includes gaming, betting, participating in lottery and price competitions. Online gambling, which is the one I want to tackle now, means gambling by use of internet, telephone, radio, television or any other electronic means or other technology for facilitating communication.

This Bill is in two parts. There is the part that assumed betting was only Kenya Charity Sweepstake. Even that part, the fines are Kshs3,000.

**Hon. Angatia:** On a point of order, Hon. Speaker.

**Hon. Speaker:** Hon. Members, if you want to claim to rise on a point of order, you must press the intervention button. Now the Member for Lugari, I can see you have found your machine. What is your point of order?

**Hon. Angatia:** Thank you, Hon. Speaker. I am just interested in the number of turnout in the National Assembly today and this is not a constitutional Bill. Could Members who have not been attending declare their interest in this matter because it is a betting Bill? I always come in at five. Can they declare their interest in this matter?

*(Laughter)*

**Hon. Speaker:** Member for Lugari, unless you have ceased to be an honourable Member and become a clerk or an officer of the Serjeant-at-Arms, that certainly is not your business. Unless you see a stranger in the House, you cannot be alarmed. Hon. Members, it is good to listen to the Member for Gem.

**Hon. Midiwo:** Hon. Speaker, this Bill is in two parts. The part which I think has elicited a lot of interest is the part I want to deal with because the people who are interested are seated here. There is the other part which I will deal with a bit later. That other part is the one that is allowing gambling in every street corner, such that without amendments, it will be interesting to see who will oppose the Bill in totality and let people gamble everywhere.

One day last year, I went to the Kisumu Airport and the taxi men were sitting in a field somewhere doing some stuff. People could not even get taxis because, I think, there was an interesting game going on. When I came here the other day, they told me that they understood what I was saying, notwithstanding that there are police officers at the airport and there is law which says you cannot gamble in public.

This House must get interested. I want to plead with you, now that you have ordered that this thing will go on for a while, and ask my colleagues to, please, take their time and read what it is that we are trying to do. This part that people are interested in will happen whether we like it or not. Even if we do not do it today, even if I am not here in about six months, I will talk to the new Members to do it. About 75 per cent of us will not be here. So, it is interesting. You can defeat it now. It will see the light of the day this year. The new Members will make it a big issue. I do not know if I will be here. I am just speaking a fact. About 80 per cent, as my leader says--- Part V of this Bill is on online gambling. We are trying to put a law where there is nothing. There is really nothing that controls online gambling. How I wish my colleagues would just recognise that it is our responsibility to put a law, especially where Kshs1 billion is collected a day. Clause 55(b) defines how that online gambling is done. It says:

“An online gambling transaction commences when a player’s account is debited in the amount of a bet and concludes when the player’s account is credited with the amount of winnings in the case of a winning bet or when a player loses the game.”

That is the definition. I have defined a player’s account. A player’s account is the account which by law we will establish to know who is gambling. If it is Hon. J.B. Muturi, the Speaker, gambling, we will get you by law just like we do with M-PESA accounts. So, it will be known that Hon. Speaker is betting, he is betting this much and the State has access to that information. If you win, Uncle Sam must get his share. If you win Kshs1 million, for example, the State must charge you 30 per cent. Right now, nobody knows because your records are not divulged to the State. We have put that in law and that is beautiful.

We complain about the free flow of money to *Al Shabaab*, in and out and money laundering. How is it that the State will not be interested in that and that the Cabinet Secretary would want this thing to be delayed? Who does not want to know who is gambling and where they live? That is how good states are organised. That is how good parliaments organise their states.

If a player in an online gambling transaction wins a non-monetary prize, the licensee shall have the prize personally delivered to the player. “Personally” because you could be in Wajir and you have won with a betting company in Nairobi and they want you to figure out how that prize gets to you. We are saying that it shall be their responsibility to get that non-monetary prize that you have won. They shall also notify the player in writing of the address within the Republic where the prize may be collected if the player so wishes.

Hon. Speaker, if a non-monetary prize has not been collected within a year after the winner has been notified of the place where it may be collected, a licensee may dispose of the prize by a public auction or may be approved by the authority and pay the cost of the disposal. They can then collect some of that money and use it to defray the cost of the auction and give the original winner the amount.

Hon. Speaker, I am proposing that a person engaging in online activity shall gamble an amount not more than Kshs200 per competition. I am saying that because we have scenarios where adverts of imaginary expectations are created. There are cases where school kids have gambled up to Kshs40,000 to Kshs50,000 of their school fees. The Chief Executive Officer (CEO) of Sportpesa told me the average bet is just Kshs200. So, under what circumstances did the Kenyatta University student who committed suicide gamble his Kshs40,000? We want to make sure that a person shall not be licensed to offer online gambling by the authority unless the person is a body corporate fully owned by Kenyan citizens.

In the 21<sup>st</sup> Century, there is a new phenomenon by a very rogue person called President Donald Trump. He is deporting people, including those who own green cards. In Kenya, all you have to do is come through our airports and you get married. Here they just get a Kenyan man to marry and hence they end up becoming citizens. They know that in Kenya they are safe and can make a Kshs1 billion a day. President Trump of United States of America (USA) has said no to such in America, then who are we to agree? Let us protect our country and citizens. We have a responsibility to protect our people so that not everyone who comes here and assumes naturalisation can milk us. They do not want to play by our rules. How can somebody who holds a work permit collect more money than Kenya Revenue Authority (KRA)? I hear that you get this permit around Nyayo House by laughing with these people. I hear a mere Kshs50,000 can get you one through the backdoor and tomorrow you are already exporting our money. Even if you were naturalised, we do not want that. We want Kenyan money to be held by Kenyans born



and raised in here. What is the obsession with foreigners? Is it because they are so smart? If we love them so much, then why is President Trump deporting our own? This is the only country where foreigners own 16 per cent of our arable land. We have foreigners in Laikipia who have been living there without even paying taxes. For example one owns a lion and he calls himself a conservationist.

(Laughter)

In South Coast, for example, they come and build some *Makutis* and we end up going there as tourist and pay them a lot of money. They then end up flying out and pay money to their accounts yet the country makes nothing out of it. As a Parliament, we can do better. Let us discuss the future of our country, we have an opportunity. We happen to be here at the opportune moment and we are not antagonising anybody. There are some of our sisters and brothers partaking of this money but we are saying please, let us make the environment well for you so that even *Wanjiku* can benefit.

Hon. Speaker, what is interesting about this gambling menace is the statistics that I have read over and over. It shows that only 2.4 per cent of people who win gambling money have ever been successful. This is because half the time, the money you win goes back to that same channel because it is addictive. When you win Kshs1 million you now think you will get Kshs100 million and hence you go in there and gamble it back because you make it a career. Hon. Speaker, allow us to make laws like you have allowed us today – Let us attempt. I have been here long enough to say you may not always succeed, but bringing out the facts is a good thing. We as a Parliament, and I have said through the Committee of Labour and Social Welfare as the Speaker has ordered, are willing to engage them. What is not killing Kenyans we cannot discard. However, to say; “*Hii tunaangusha*” is very annoying.

Hon. Speaker, a licensee who offers online gambling activities without being registered as a body corporate commits an offence and shall be liable on conviction to a fine of not less than Kshs10 million which will go to the State or in default, the CEO of the licensee shall be liable to imprisonment for a term not less than 50 years. Stop killing our children! You cannot do that service here. When we do not license you or if you are a foreigner then you should stop killing our kids. That is how a good law will stop people from doing what is happening currently in this country.

Hon. Speaker, a licensee who offers online gambling activities while not fully owned by Kenyan citizens commits an offence and shall be liable on conviction to a fine of not less than Kshs15 million or in default the CEO of that outfit shall be liable to imprisonment for a term not less than 15 years. That is what will deter people who think Kenya is a place you can come in and be a billionaire in a second.

Hon. Speaker, a licensee shall not permit a person to participate in online gambling unless that person is registered as a player and has opened a player’s account with an authorized financial institution. In London, England and Great Britain where online betting happens, that is the scenario and that is where I got that clause from. If Hon. David wants to gamble for example, then he must say my account is with Equity Bank. He should make it known and the State can audit it if it wants. He cannot conduct shenanigans with it. He cannot do hunky punky with whatever he is doing. His account cannot be misused. That is a good thing. We are borrowing from international best practices. The licensee shall maintain an account with an authorised financial institution into which it shall pay all money relating to online gambling activities. This

means betting companies such as *mCHEZA*, *betin* and all others must open an account with a Kenyan bank and all their transactions must be known. That is because if it is a Kenyan Bank, the National Intelligence Service and Central Bank of Kenya (CBK) will know of the transactions. We must know the movement of our money because that is what will prevent money laundering. In fact, it is for that reason that those people do not want us to debate this matter. This is why the Chairman of the betting body does not want us to debate it. How can he? Shame on him! Why would you not want the State to know where monies are kept?

A few days ago, somebody was arrested in Mombasa by the Anti-Narcotics Squad. He had a Land Cruiser which was carrying several fuel tanks and one of them was his bank. When that vehicle was impounded and taken to a police station for inspection, one of the fuel tanks was found to be carrying Kshs18 million. Ordinarily, people thought that tanks were just fuel tanks.

Recently, the Prime Minister of India, Mr. Modi, realized that so many people kept money in their houses and so, their economy was stifled. This matter was highlighted on Cable News Network (CNN) the day during the USA elections. He cancelled the big denominations and made them irrelevant. He said they could not work in the Indian economy. So, for you to hold big denominations in India, you have to go back to the bank and get small money. Those people were not banking in banks. The Indian economy now has cash. It does not have people holding monies in fuel tanks and under the bed. That is what this kind of thing is seeking to create. I plead with this House because what I am trying to do is well thought out. I am---

*(The Microphone was switched off)*

**Hon. Speaker:** The Member for Gem was not even forewarned. A Mover should be given a warning of about five minutes, not the usual one minute. Some of the Members do not know that the yellow light indicates a balance of one minute and the red indicates a balance of 30 seconds. I have seen some Members sit down when they see the yellow light. However, a Mover of a Bill should be given a warning of five minutes.

Please give him his five minutes.

**Hon. Midiwo:** Thank you, Hon. Speaker. We have also said that a licensee shall not permit a person who is not a citizen of Kenya to engage in online gambling. I have also said that a licensee shall not remit monies collected out of gambling activities, including online gambling, to foreign nationals or countries. Under what circumstances are we funding Pearl City? Who authorizes the Kshs3billion to leave this country? How would Kenyan money leave this country and go to London to fund rich people? Those are some of the baffling things that are happening around us. We do not want to put those people out of business, but we want to put a law where there is none.

Having said that, there is a bigger menace that Members of Parliament must help to stop through this Bill. The slot machines are not a joke. They are not licensed. They are in every street and corner in this country. If you give your child Kshs10 to go and buy paraffin in a shop, the first temptation is to put it in a slot machine with an expectation of multiplying that money. I have given this House a Bill and spoken about the part where I know most Members' interest lies. However, what is affecting so many people in your constituencies--- Senator Mutahi Kagwe told me about it and how it is killing businesses in Nyeri. That has been addressed in Part I of this Bill. You must read and talk about it.

Please, let us soberly debate this Bill. If I have said anything here which you are not agreeing to, please, bring it out so that we can debate. The Committee is still there. Let us come

up with a Bill. Some people out there think Parliament cannot make a Bill to stop the ills of society. I want to tell anybody who thinks so: “Shame on you.” Let me tell him that the zeal with which we fought the banks, and we are continuing to do so, is here to stay. Even if you think you can defeat us, you can defeat us once. But we will come up every six months until we win. This Bill is here to stay. For you my colleagues, please, know that betting is affecting our children and country at large. It is promoting criminality in this country. All the money is being repatriated to other countries. We have no choice but to control that rogue industry. It cannot work without the law.

Online betting depends on our money, which is repatriated without a chance of it ever coming back here. We cannot borrow to the extent that even unborn children in this country already owe Kshs90,000! The State does not make law; it is this House that makes law. You must help the State by giving them a law to protect the repatriation of our money, including public funds. It is interesting now for the people in the Office of the President because I know they are being talked to, but that will always be there. It has happened before with many other laws. I am talking to your people in the villages so that you can come back and support this move.

I beg to move and ask Hon. Kimani Ichung’wah to second.

**Hon. Speaker:** The Member for Kikuyu, you are the one to second.

**Hon. Ichung’wah:** Thank you, Hon. Speaker. You can hear the Hon. Member for Kiharu saying that I always fight with Hon. Midiwo on television. But on matters that touch on the people that I represent, I have no option but to close ranks with Hon. Jakoyo Midiwo and support him.

A lot has been said by the Mover of the Bill on many issues that touch on this Bill. I was just sharing with Hon. Katoo and he reminded me of something that the Reverend who was preaching during the funeral of the late Hon. ole Ntimama said. He said that there are three ills that are destroying this country. They are negative ethnicity, corruption and betting. Hon. Katoo was telling me how the Reverend went ahead to enumerate how people were sleeping in their beds and from the comfort of their beds just betting on their phones and waiting to make Kshs100,000 or a million shillings. It is an evil thing just as I said in the earlier discussion on the point of order raised by the Chairman of the Committee. It is an evil that we must discuss as a country.

I want to say for the record that I have friends who are in the business of gambling and engaging in online betting. The evils and the demerits of betting far outweigh the gains which a few people in this country are benefiting. I want to support the Mover that Members should read the contents of the Bill. That is because most of us are very quick at rushing to oppose it for the sake of it. Probably, they are opposing it because they do not like Hon. Midiwo who is the Mover. This Bill has content and is creating an authority. If we are regulating the *matatu* industry, why should we not regulate betting and gambling in this county? This Bill is creating an authority which will control and regulate this business in this country. There is absolutely nothing wrong with regulating a multi-billion shillings industry.

Hon. Jakoyo Midiwo gave an example which was given by the Senator for Nyeri, Hon. Mutahi Kagwe. That problem is not only in Nyeri, Rongo or Kikuyu, but all over the country. I want to believe it is even in northern Kenya, where many Muslims are not in the business of gambling. But because they have integrated with people from other communities in this country, that evil is taking a very deep root in this country which we must uproot.

This Bill is not criminalising gambling or betting, but simply asking that we regulate that industry. The slot machines that we are talking about are in corners of kiosks, bars and hotels. There is no regulation or any revenue collection authority in this country which knows how much money gets into those machines, who owns them and whether or not they are paying taxes. This Bill also goes on to regulate an industry which originally, since we were small children, seemed to be regulated. But the laws which were there are not adequate to regulate gambling in casinos.

In the past three weeks, the national debate has been on the fight against drugs and drug trafficking. If we are to win the war against drug trafficking and rein in the drug barons, we cannot do that without looking at the casino businesses in this country. This Bill seeks not to just regulate the casino businesses, but also limit their number in an area or county. A case in point is the number of casinos in Nairobi. In Westlands alone, if you happen to go to those casinos during the day and see the kind of people who are gambling there and the kind of money that is moving, you will know why that business thrives in certain areas where peddling of drugs is very rampant like Westlands. The same is the case with Malindi.

The casino gambling business to a large extent has been used as a money laundering conduit of drug money in this country. We must address some of those concerns as a House. That is why I am asking Members that, as they oppose, it should not be for the sake of it. It should not just be because they have friends in the business, like Hon. Gikaria said. His teams are being supported by those companies. I want to ask: Even if those people are supporting some of our football teams, Hull City is not a Kenyan team and hundreds of millions are going there. How much is going to our own teams? The deaths and ruining of families is real and we cannot hide behind our friends who are in this business and our family members who are gambling.

I have family members who have been gambling at the Ngong Racecourse, but I would rather they do that than what has permeated the society in this country, where even very young children are participating. I want to support the proposal in this Bill to even limit the betting age. We have no reason to allow 13 and 14-year-old girls to bet, like the case which was cited in Nakuru. For those of you who did not watch it on television, there were three young girls from a secondary school in Nakuru who were locked up in a house by a gentleman because they were afraid to go back home after betting all their school fees. Another case is that of a student at the Jomo Kenyatta University of Agriculture and Technology (JKUAT) who bet a sum of Kshs.80,000 which was his school fees and he could not afford to go back home for more fees. That student committed suicide.

Those are the ills which as a House we must guard our country against and more so, for the benefit of our youth. It is okay to bet. I want to tell you as a student of economics that any money which is generated from unproductive activities cannot benefit an economy. That is what is happening in this gambling business. People are staying home, sitting idle at shopping centres and bus parks gambling and waiting to make a kill. We cannot raise our children that way and teach our youth that there are lucky wins and one can just sit and not engage in any economic activity and expect to reap a harvest someday. As we say in Kikuyu, “*kanyakanya*”.

People are being encouraged in vernacular radio stations to bet online. Many people are not engaging in productive work. No wonder you cannot find people doing casual work anywhere in this country because they are more comfortable sitting with just a phone worth Kshs.1,000 and airtime of Kshs.200 betting and expecting to make a kill.

This Bill is good as Hon. Jakoyo said. It is not everything in this Bill which is good but please let us not kill what is good for this country because of our own selfish interests. I support this Bill and ask Members to support it. I beg to second.

Thank you, Hon. Speaker.

**Hon. Speaker:** Did you say you wish to be seconded or you wish to second?

**Hon. Ichung'wah:** Sorry, Hon. Speaker. I wish to second this Bill. Now, that you have allowed me, there is something very critical in this Bill which I had highlighted on the question of young people. Clause 9(5A) states:

“(1) A person shall not hold a licence or permit issued under this Act, if that person-

- (a) is a young person;
- (b) is a public officer;
- (c) is listed on the register of excluded persons;
- (d) is a family member of a person who is a member or employee of the Board;
- (e) is bankrupt;
- (f) is not a fit and proper person to be involved in the business concerned;
- (g) is subject to an order of a competent court holding that person to be mentally unfit or deranged; or
- (h) has been convicted of the offence of economic crimes under the Anti-Corruption and Economic Crimes Act.”

My particular concern is in the exclusion of young people because they are the ones who have been greatly affected by gambling. On the issue of public officers, it is a fact of life that there are public officers who are engaging in this business. For example, in my county of Kiambu, many civil servants who are employed by the county government have bought those slot machines. What they are doing to encourage corruption in the county government is, if one does not pay for licences and rates, he or she can allow the public officer to place their slot machine either inside their kiosk or outside their shop and forego payment of the licences. I was interrupted a lot by the Leader of the Majority Party. I do not know what interest he has.

**Hon. A. B. Duale:** On a point of order, Hon. Speaker.

**Hon. Speaker:** There is nothing out of order.

*(Loud consultations)*

**Hon. Ichung'wah:** Hon. Speaker, the question of young people because---

**Hon. Speaker:** You need to wind up.

**Hon. Ichung'wah:** Hon. Speaker, I am winding up. I was talking about Clause 25 of the Bill on protection of young persons. It is only that the Leader of the Majority Party was interrupting me and out of respect since he is a good Muslim, I thought he wanted to contribute so I cut short my presentation.

I am particularly concerned about the young people. We will need to rectify the order of the clauses.

Clause 25 states:

“The principal Act is amended by repealing Section 28 and substituting thereof the following new section-

28 (1) A person who permits a young person to engage in, conduct or make available a gambling activity, commits an offence and shall be liable on conviction to a fine of not less than five million shillings or to imprisonment for a term of not less than five years or both.”

This particular provision is very good in the sense that it protects those young vulnerable school children who are only after that extra coin for their pocket money and those young university students who are even being lured to become drug peddlers so that they can get money to gamble and bet. This provision is very protective of young people. As a young father to young children, I ask that we support this Bill; If not for your own very selfish interests, at least for your own children and for generations to come.

This Bill is for posterity. It is good for this country. I beg to second and support it. I urge all of you to support it. Forget your friends.

*(Question proposed)*

**Hon. Members:** Put the Question!

**Hon. Speaker:** Hon. Members, the Leaders of the Majority Party and the Minority Party have precedence in speaking.

Let us have the Leader of the Majority Party.

**Hon. A. B. Duale:** Thank you, Hon. Speaker.

*(Hon. Midiwo walked out of the Chamber)*

I want the Mover of the Bill to listen. You need to come back and listen.

First, I want to declare my interest. Because I am a Muslim, my religion forbids gambling and lotteries. If you are a Muslim and a Member of this House, you have no choice. The Quran teaching is very explicit. I happen to be a good Muslim. I have not reached where I want to in my faith.

In the recent past, the gambling and sports betting industry in Kenya has grown in an unprecedented manner. That is a fact. It is good for those whose religion does not prohibit gambling. It is like any other business. However, for those of us whose religion prohibits gambling, we have to stand for the values we believe in. From what I read in this Bill, there is a *lacuna* and inconsistencies in law and in the legal framework in as far as the governance of this industry is concerned. .

Unregulated betting activities can seriously lead to social ills in our country arising out of compulsive addictive gambling behaviour necessitating the need for a legal framework to regulate it. Within the reading of Article 94 of the Constitution, this House has the function of legislative authority. We must have legislation that will regulate and govern every industry and everything that is done in our country. The objective of the Bill is as follows: This Bill wants to provide a framework for regulating and controlling gambling activities.

Hon. Speaker, you remember in a meeting of the House Business Committee where we discussed a secondary school student who used school fees of Kshs17,500 to bet between two Premier League clubs which were playing. This boy decided to bet that both teams would win. Little did he know that the same teams could draw. The teams drew and he lost his money. In the end, he committed suicide because he only bet for both teams to win from different phones but the two teams drew. We need to have that regulation.

We also want to see promotion of a responsible gambling industry. Gambling is an industry. There are casinos. There are people in this country who engage in serious business. There is nothing wrong with the sponsorship that the Hon. Member for Kikuyu was talking about. There are many companies that support different teams in the world. You can choose to support any. I am an ardent fan of the Manchester United Football Club. I wish I had Kshs1 billion. I would contribute some money when they want to buy a player. There is nothing wrong with that. This House dealt with a Bill called the Proceeds of Crime and Anti-Money Laundering Bill. This House also dealt with anti-terrorism financing. This House dealt with the establishment of the Financial Reporting Centre. This House came up with a piece of legislation, as late as last week, that dealt with the establishment of an institution called the Asset Recovery Centre. Why do we do all this? As a country, we want to lock out dirty money circulating in our economy.

One day, if I become the President, I will ban gambling. Right now, I do not have the power. I want to tell the governors in northern Kenya in Garissa, Wajir and Mandera that they must ban gambling. Ninety per cent of the people who live there are Muslims. We must prepare the 42 million Kenyans for heaven. We must prepare Kenyans on the route to heaven so that many of us avoid hell. By regulating gambling, we will reduce the number of those who will go to hell.

This Bill has no other purpose. It just wants to regulate the betting industry. I am sure that all of us will propose amendments during the Committee of the whole House stage. I am sure if the industry is listening to me, it is good for them. Even the industry wants to play and engage in business where there is a legal framework. Nobody wants to do business where there are no laws. It is a very important thing.

This Bill talks about preventing gambling using proceeds of crime and from being used in anti-money laundering activity. The Chairperson of the Departmental Committee on Labour and Social Welfare is here. I can tell you for free that when the Commissioner-General of the Kenya Revenue Authority (KRA) appears before you on Tuesday, he has one mandate under this Act which is to collect money. The taxation regime he is going to propose in this Bill will be shocking. I am going to attend the meeting on Tuesday next week because there is a letter to that effect. He has written to the Clerk saying that he will come on Tuesday and he will say the amount of money he collects and if we help him regulate the industry, he will collect such an amount of money. That is what Mr. Njiraini is going to say. The money he is going to collect will reduce the budget deficit of one, Henry Rotich. Henry Rotich has a budget deficit of about Kshs700 billion in this financial year. If he can collect Kshs200 billion from this industry---

Hon. Speaker, there is a condition for granting licences according to this Bill. It says that for one to be granted a licence and permit, the person shall not hold a permit or a licence if that person is a foreigner. In this world people are not very lucky. It is only Trump who was lucky. President Trump inherited US\$30 million from his father. People think that he was a hustler. President Trump, and if you read his biography, inherited US\$30 million from his dad. He then went and renovated an estate and, I think, he made double that amount of money. That is the history. So, we are saying that a foreigner should not come and spoil our children. If we are extraditing drug dealers over the Atlantic--- There is no difference between drug dealers and--- The Bill says that if a person is below 25 years or a public officer he or she will be protected.

My elder, neighbour and ranking Member even in the party, a man we respect a lot, who introduced me to where I live along Kiambu Road, Hon. Kamanda rarely comes to the House. Today, I am a happy man. I am wondering at this hour and the primaries are closer how come the House is full. In fact, yesterday I was with Hon. Wamunyinyi and other two Members dealing

with a Bill. So, today is a good day. We should have this Bill debated for the next two weeks and it should be coming from 5.30 p.m. so that we get even quorum to put the Question. Today, I am wondering what is happening. It is a Thursday. Even my neighbour has come back.

**An Hon. Member:** (*Off record*)

**Hon. A. B. Duale:** I told you that this Bill is against my religion.

There is a provision in this Bill that provides for a request for provision of digital information to a board when considering application for licence or a permit. It must be in a written form. A report relating to that application--- It says that the Director of Criminal Investigation, Director-General of the Financial Reporting Centre and the Director-General of the National Intelligence Service must be notified. This is the good bit about this Bill. It makes provision for the Financial Reporting Centre so that, that person can identify and look at the flow of that money in that place. The Director of Criminal Investigation can investigate if there is criminal intent in this Bill. Finally, the most important person is out head of Intelligence so that he can find out if this money is being used for other purposes.

There is a clause to protect young persons. For persons under the age of 25, it shall be a defence before a court of law that the person did not have the knowledge that the person who was engaging in gambling activity was below 25 years. This law provides for an application by the Board to register excluded persons. It criminalises the sending of the proceeds of these resources out of the country. So, you cannot finish all that. Parliament should not be used to protect certain industries. We should stop that. Parliament should be used to make legislative proposals that will help the people of Kenya. It does not matter who brings the legislation; it could be brought by the Minority or Majority parties. The law also prohibits the transfer of proceeds arising from gambling to foreign countries. This House could be convinced to agree on what portion of the proceeds could be transferred. I have no problem where a company wants to support and promote a sport like football in another country. At the Committee of the whole House, we will define what part of the proceeds one can transfer.

This Bill prescribes high taxes payable by licence-holders engaged in various gambling activities. You cannot fight poaching and at the same time say you will allow gambling. They are not in tandem. I do not want to name names. In the last Parliament, I had colleagues who were gamblers. It is so sad that when you are a gambler you cannot even buy suits. You can gamble the whole of your family's money. There were Ministers and Members of Parliament who used to gamble. It is a very addictive sport and you will even miss going to church or the mosque. You will even stay very late until 4 a.m. in the casinos until you destroy your family. I want to urge my colleagues: yes, I am sure there are a number of concerns. Let us bring those concerns to the Committee of the whole House. Let us make sure that at the end of the day, this is just a law. We are not going to agree with this law---

**Hon. Members:** Put the Question.

**Hon. A.B. Duale:** Hon. Speaker, no putting the Question. I am sure there are Members who want to contribute. I am sure the Chairman will meet stakeholders. He will come with a raft of amendments. We are under obligation to even change the title of this Bill. We can change 80 per cent of this Bill. That is why we are in this House. Let us not kill the Bill. Let us not throw the baby with the bathwater.

There was a time the late Hon. Mutula Kilonzo brought a Bill here. It was during the life of the 10<sup>th</sup> Parliament. We changed everything in the Bill, including the title. Mutula Kilonzo, then a Minister, stood on this side of the House and said, "Mr. Speaker, this is not my Bill. This is a different Bill." He was told by the Speaker that it was a function of the House.



I want to tell my colleagues, you have an opportunity to change even the title. You have an opportunity to amend every clause to your satisfaction. Let us not kill the Bill simply because a very bad man is the Mover. I do not like Jakoyo Midiwo. He is not a very good man. You have killed his Motion before. Let us not kill his Bill. He is not a very bad man, but at times he is very bad.

I beg to support.

**Hon. Speaker:** Hon. Members, remember that you are a legislative House. It is also fair that you revisit my earlier ruling regarding the Committee chaired by the Member for Matungu.

Let us have Hon. Nyenze.

**Hon. Nyenze:** Thank you, Hon. Speaker. I rise to oppose this Bill.

*(Applause)*

When my deputy was moving this Bill, he said that it is only the Kenyan citizens who are licensed to do betting and gambling. It is unconstitutional to deny foreigners investments. Our President has been to many countries in the world looking for foreign direct investment. Foreigners bring money for our country's development. This is an important Bill.

*(Hon. Ichung'wah and Hon. Midiwo consulted loudly)*

Hon. Speaker, protect me from Hon. Ichung'wah and Hon. Midiwo, my deputy. This Bill touches on Kenyans and we understand the pain of those who kill themselves---

**Hon. Midiwo:** On a point of order, Hon. Speaker.

**Hon. Speaker:** Hon. Midiwo, what is your point of order?

**Hon. Midiwo:** Hon. Speaker, I do not like interrupting my leader, but it is grossly out of order that the Leader of the Minority Party, who signed the Bill to make it a Party Bill rises to oppose it. The rat he smelled is the one I smell now.

**Hon. Nyenze:** I did not sign this Bill because it was a Private Member's Bill. It is now purported that I signed it. We never discussed this Bill as a party. It is a shame that someone is now purporting that I signed it.

*(Loud consultations)*

Hon. Speaker, please protect me because they have already contributed. They should not spend my time.

**Hon. Speaker:** Hon. Members, you must allow the Member for Kitui West to contribute. To be fair, the Bill is signed by Hon. Midiwo. You cannot claim to rise on a point of order to deal with that point. I can see those who want to rise on points of order have no copies of the Bill. Please look at the Bill because you came here to legislate, and you must have copies of the Bill. This Bill is signed by Hon. Midiwo and there is nothing wrong with that. The Leader of the Minority Party is talking about whether the Bill is Party sponsored or not. A Party sponsored Bill can still be signed by any Member. He is saying that the Bill is not from the party. He has a right to say that but it does not mean that Hon. Midiwo cannot sign his Bill.

Hon. Nyenze, please proceed.

**Hon. Nyenze:** Hon. Speaker, there was a request by the Chairman of the Departmental Committee on Labour and Social Welfare, Hon. Were to give him time to look at the best

practices so that we can have a conclusive Bill, that covers everything. Why are we rushing? I will not support a Bill that is not inclusive.

Hon. Speaker, the former President of Uganda, Idi Amin chased Asians so that Ugandans could get farms, but they have now realised it was not a good idea. Asians had knowledge on sugar farming. They are now calling back investors. He chased people from their land and gave it to Africans. Today, Zimbabwe imports meat, maize and everything. We cannot restrict foreigners from investing. We can regulate but we cannot keep away people who are bringing their money to invest. Neither can you try to split companies like Safaricom as my deputy has said. You cannot punish a company that is successful like Safaricom by splitting it into three. I want to say this. There are four players---

*(Loud consultations)*

**Hon. Speaker:** Hon. Members, please I want you to know this. Four years down the road, there has been this practice that somebody says something which you do not agree with and you think there is something out of order. You will be thrown out of this House for being grossly out of order. If you do not agree with what somebody is saying, there is nothing out of order. You will have an opportunity to say something opposite.

**Hon. Nyenze:** Thank you, Hon. Speaker, for your solomonic wisdom and ruling. There are many accidents on the roads and people are blamed for having taken beer. We do not legislate to ban beer drinking but we regulate it. It is the same with gambling and betting. All I appeal to Members is that there are four major betting companies in this country; *betway*, *SportPesa*, *betin* and *mCHEZA*. There are other smaller ones. If people have invested money and they are paying taxes, what we should do is to ask the Kenya Revenue Authority (KRA) to collect taxes and be effective. However, you cannot close someone's business if they have invested money. We can regulate and try to prevent those bad things from taking place.

This Bill is of great concern to Kenyans because of what is happening. It wants to replace the Betting Control and Licencing Board with an authority.

**Hon. Oyoo:** On a point of order, Hon. Speaker.

**Hon. Speaker:** Member for Muhoroni, you must be sure that it is a point of order. If it is not--- You must tell me what is out of order. Tell me the Standing Order under which you want to rise. Under what Standing Order do you want to rise? Answer that first. Sit down if you do not have a card.

Proceed, Hon. Nyenze. He does not even know how to operate his machine.

**Hon. Nyenze:** Thank you, Hon. Speaker. I can see there is confusion. We want harmony. We operate through traditions. We have our rules on the way we operate. If a chairman of a Committee that is supposed to do certain work requests for additional time, it is only fair to give that Committee time so that they look at it. A Committee is better than one or two people. You cannot be pushed to do something that I would not say unconstitutional, but a shortcut. It will save our country. This Bill introduces some very stiff penalties and fines which run into millions. It will render some of those businesses unprofitable. They will close down. I am a free entrepreneur. I like doing business and the best thing is to regulate but regulate in a manner whereby you pass through a committee which is the proper channel. Though Members are allowed to bring Bills, it is wiser when we collectively as the National Assembly coalesce around a Committee's Report. The Committee can reject it or recommend some changes. Members of Parliament will have time to change that but I appeal to the members; please let us not rush. That

is why I oppose. It is painful to oppose this Bill because it is coming when there is a good request before the House.

Hon. Speaker---

### ADJOURNMENT

**Hon. Speaker:** Order, Hon. Nyenze! Hon. Members, it is now 6.30 p.m. Hon. Nyenze, you have a balance of seven minutes. Order, Hon. Ichung'wah and Hon. Midiwo! The House stands adjourned until Tuesday, 21<sup>st</sup> February 2017 at 2.30 p.m.

The House rose at 6.30 p.m.